
# FEDERAL REGISTER

Vol. 87 Monday

No. 204 October 24, 2022

Pages 64149–64364

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

**How To Cite This Publication:** Use the volume number and the page number. Example: 87 FR 12345.

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

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **202–512–1806** |
| **General online information** | **202–512–1530; 1–888–293–6498** |

**Single copies/back copies:**

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

**FEDERAL AGENCIES**

**Subscriptions:**

| | |
|---|---|
| Assistance with Federal agency subscriptions: | |
| Email | *FRSubscriptions@nara.gov* |
| Phone | **202–741–6000** |

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

Printed on recycled paper.

# Contents

**Federal Register**

Vol. 87, No. 204

Monday, October 24, 2022

---

**Separate Parts In This Issue**



---

**Reader Aids**

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

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

## CFR PARTS AFFECTED IN THIS ISSUE

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

**12 CFR**
327 (2 documents) .....64313, 64348

**Proposed Rules:**
Ch. II .....64170
Ch. III .....64170

**14 CFR**
39 (3 documents) .....64149, 64152, 64156
71 (4 documents) .....64157, 64159, 64160, 64171

**Proposed Rules:**
39 .....64175

**21 CFR**

**Proposed Rules:**
201 .....64178
314 .....64178

**33 CFR**
100 .....64163
147 .....64163
165 .....64163

**Proposed Rules:**
147 (5 documents) .....64179, 64181, 64183, 64186, 64188

**38 CFR**

**Proposed Rules:**
17 .....64190

**40 CFR**
52 .....64165

**Proposed Rules:**
180 .....64196

**45 CFR**
613 .....64167

# Rules and Regulations

Federal Register
Vol. 87, No. 204
Monday, October 24, 2022



## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0813; Project Identifier MCAI–2021–01316–A; Amendment 39–22194; AD 2022–20–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Vulcanair S.p.A. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Vulcanair S.p.A. Model P.68, P.68B, P.68C, P.68C–TC, P.68 ''Observer,'' P.68TC ''Observer,'' P.68 ''Observer 2,'' and P.68R airplanes. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as corrosion causing failure of the upper rudder hinge. This AD requires repetitively inspecting the upper and lower rudder hinges for corrosion, cracking, and damage, and depending on the inspection results, taking corrective action. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 28, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 28, 2022.

**ADDRESSES:**

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–0813; 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 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 service information identified in this final rule, contact Vulcanair S.p.A., Fulvio Oloferni, via Giovanni Pascoli, 7, 80026 Naples, Italy; phone: +39 081 5918 135; email: *airworthiness@vulcanair.com;* website: *vulcanair.com*.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. 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–2022–0813.

**FOR FURTHER INFORMATION CONTACT:** John DeLuca, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7369; email: *john.p.deluca@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 Vulcanair S.p.A. Model P.68, P.68B, P.68C, P.68C–TC, P.68 ''Observer,'' P.68TC ''Observer,'' P.68 ''Observer 2,'' and P.68R airplanes. The NPRM published in the **Federal Register** on July 8, 2022 (87 FR 40755). The NPRM was prompted by AD 2021–0267, dated November 24, 2021 (referred to after this as ''the MCAI''), issued by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. The MCAI states:

> Occurrences were reported of failures of the upper rudder hinge on P.68 aeroplanes due to corrosion, which can occur if the aeroplane is operated in an environment which may favour the formation of corrosion.
>
> This condition, if not detected and corrected, could interfere with rudder movement and ultimately lead to failure, possibly resulting in loss of control of the aeroplane.
>
> To address this potential unsafe condition, Vulcanair issued the SL [Vulcanair Aircraft Alert Service Letter No. 23, Revision 2, dated September 29, 2021] and updated the applicable AMM [Aircraft Maintenance Manual], as defined in this [EASA] AD, to provide inspection instructions.
>
> For the reason described above, this [EASA] AD requires repetitive inspections of the upper and lower rudder hinges and, depending on findings, accomplishment of applicable corrective action(s).

In the NPRM, the FAA proposed to require repetitively inspecting the upper and lower rudder hinges for corrosion, cracking, and damage, and depending on the inspection results, taking corrective action. The FAA is issuing this AD to address the unsafe condition on these products. You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA–2022–0813.

### 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. This AD is adopted as proposed in the NPRM.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed Vulcanair Aircraft Alert Service Letter No. 23, Revision 2, dated September 29, 2021, which specifies procedures for inspecting the upper and lower rudder hinges for corrosion, cracking, and damage, and specifies contacting Vulcanair for instructions to repair an affected rudder hinge. This service information also refers to the applicable aircraft maintenance manuals for additional inspection procedures. The FAA also reviewed the following service information, which specifies procedures for maintaining various structural parts.

These documents are distinct since they apply to different airplane models.

- Section 6, Structures, of the Vulcanair Aircraft P.68C & P.68C–TC Maintenance Manual, AMM10.702–1, Revision 7, dated May 11, 2021.
- Section 6, Structures, of the Vulcanair Aircraft P.68 Observer 2 & P.68TC Observer Maintenance Manual, AMM10.702–2, Revision 8, dated November 11, 2021.
- Section 6, Structures, of the Vulcanair Aircraft P.68R Maintenance Manual, AMM10.702–3, Revision 12, dated December 12, 2019.
- Section C, Airframe, of the Vulcanair Aircraft P68C Maintenance Manual, NOR10.709–1B, Revision 9, dated August 30, 2017.
- Section C, Airframe, of the Vulcanair Aircraft P68–TC Observer Maintenance Manual, NOR10.709–4A, Revision 4, dated March 15, 2018.
- Section B, Structure, of the Vulcanair Aircraft A/C P68B Victor Maintenance Manual, NOR.10.709–9, Revision 16, dated September 22, 2017.
- Section C, Airframe, of the Vulcanair Aircraft P68 Observer 2 Maintenance Manual, NOR10.709–10, Revision 5, dated October 23, 2017.

This service information 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.

**Differences Between This AD and the MCAI**

The MCAI applies to Model P.68 ''Victor,'' P.68B ''Victor,'' and P.68R ''Victor'' airplanes, which are identified on the FAA type certificate as Model P.68, P.68B, and P.68R airplanes, respectively.

The MCAI requires contacting Vulcanair for approved repair instructions, while this AD does not.

**Costs of Compliance**

The FAA estimates that this AD affects 14 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 airplane | Cost on U.S. operators |
|---|---|---|---|---|
| Visual inspection of upper and lower rudder hinges. | 2 work-hours × $85 per hour = $170 | Not applicable | $170 per inspection cycle | $2,380 per inspection cycle. |
| Disassembly for dye inspection of the top rudder hinge (bracket). | 7 work-hours × $85 per hour = $595 | Not applicable | $595 per inspection cycle | $8,330 per inspection cycle. |
| Disassembly for dye inspection for the lower rudder hinge (control tube). | 8 work-hours × $85 per hour = $680 | Not applicable | $680 per inspection cycle | $9,520 per inspection cycle. |
| Dye inspection of upper and lower rudder hinges (post disassembly). | 2 work-hours × $85 per hour = $170 | Not applicable | $170 per inspection cycle | $2,380 per inspection cycle. |

The FAA estimates the following costs to do any necessary actions that would be required based on the results of the inspection. The FAA has no way of determining the number of airplanes that might need these actions.

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per airplane |
|---|---|---|---|
| Replacement of the top rudder hinge (bracket) | 7 work-hours × $85 per hour = $595 | $320 | $915 |
| Replacement of the lower rudder hinge (control tube) | 8 work-hours × $85 per hour = $680 | 1,020 | 1,700 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**The Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2022–20–10 Vulcanair S.p.A.:** Amendment 39–22194; Docket No. FAA–2022–0813; Project Identifier MCAI–2021–01316–A.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 28, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Vulcanair S.p.A. Model P.68, P.68B, P.68C, P.68C–TC, P.68 ''Observer,'' P.68TC ''Observer,'' P.68 ''Observer 2,'' and P.68R airplanes, all serial numbers (S/Ns), certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 5540, Rudder Structure.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as corrosion causing failure of the upper rudder hinge. The FAA is issuing this AD to address damage of the upper and lower rudder hinges. This condition, if not addressed, could result in interference with the rudder movement and lead to failure of the rudder, which could result in loss of control of the airplane.

**(f) Compliance**

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

**(g) Required Actions**

Within 200 hours time-in-service (TIS) after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 200 hours TIS or 12 months, whichever occurs first, inspect the upper and lower rudder hinges for looseness, corrosion, cracking, and damage in accordance with steps 1 through 4 of Vulcanair Aircraft Alert Service Letter No. 23, Revision 2, dated September 29, 2021.

(1) If there is no looseness, no corrosion, no cracking, and no damage, do the actions in paragraphs (g)(1)(i) and (ii) of this AD.

(i) Remove the rudder by following the removal procedure for your airplane identified in table 1 to paragraph (g)(1)(i) of this AD.

TABLE 1 TO PARAGRAPH (g)(1)(i)—APPLICABLE MAINTENANCE MANUALS (MMS) FOR RUDDER REMOVAL

| Airplane model | Vulcanair MM rudder removal procedure | Airplane S/N |
|---|---|---|
| P.68 and P.68B ..... | Paragraph 6.2, Removal and Installation of the Rudder, of Chapter 6—Vertical Empennage, of Section B, Structure, of the Vulcanair Aircraft A/C P68B Victor Maintenance Manual, NOR.10.709–9, Revision 16, dated September 22, 2017. | All S/Ns. |
| P.68R ..... | Paragraph 6.2, Removal and Installation of the Rudder, of Chapter 6—Vertical Empennage, of Section B, Structure, of the Vulcanair Aircraft A/C P68B Victor Maintenance Manual, NOR.10.709–9, Revision 16, dated September 22, 2017. | S/N 40 and S/N 430. |
| | Paragraph 3.2.13, Removal of Rudder, of Section 6, Structures, of the Vulcanair Aircraft P.68R Maintenance Manual, AMM10.702–3, Revision 12, dated December 12, 2019. | S/N 453 and larger. |
| P.68C ..... | Paragraph 5.10, Removal of the Rudder, of Section C, Airframe, of the Vulcanair Aircraft P68C Maintenance Manual, NOR10.709–1B, Revision 9, dated August 30, 2017. | S/N up to and including S/N 460. |
| | Paragraph 3.2.13, Removal of Rudder, of Section 6, Structures, of the Vulcanair Aircraft P.68C & P.68C–TC Maintenance Manual, AMM10.702–1, Revision 7, dated May 11, 2021. | S/N 462 and larger. |
| P.68C–TC ..... | Paragraph 5.10, Removal of the Rudder, of Section C, Airframe, of the Vulcanair Aircraft P68C Maintenance Manual, NOR10.709–1B, Revision 9, dated August 30, 2017. | S/N up to and including S/N 392. |
| | Paragraph 3.2.13, Removal of Rudder, of Section 6, Structures, of the Vulcanair Aircraft P.68C & P.68C–TC Maintenance Manual AMM10.702–1, Revision 7, dated May 11, 2021. | S/N 467 and larger. |
| P.68 Observer ..... | Paragraph 5.10, Removal of the Rudder, of Section C, Airframe, of the Vulcanair Aircraft P68C Maintenance Manual, NOR10.709–1B, Revision 9, dated August 30, 2017. | All S/Ns. |
| P.68 Observer 2 ..... | Paragraph 5.10, Removal of Rudder, of Section C, Airframe, of the Vulcanair Aircraft P68 Observer 2 Maintenance Manual, NOR10.709–10, Revision 5, dated October 23, 2017. | S/N up to and including S/N 451. |
| | Paragraph 3.2.13, Removal of Rudder, of Section 6, Structures, of the Vulcanair Aircraft P.68 Observer 2 & P.68TC Observer Maintenance Manual, AMM10.702–2, Revision 8, dated November 11, 2021. | S/N 465 and larger. |
| P.68TC Observer .... | Paragraph 5.10, Removal of the Rudder, of Section C, Airframe, of the Vulcanair Aircraft P68C Maintenance Manual, NOR10.709–1B, Revision 9, dated August 30, 2017. | S/N up to and including S/N 394. |
| | Paragraph 5.10, Removal of Rudder, of Section C, Airframe, of the Vulcanair Aircraft P68–TC Observer Maintenance Manual, NOR10.709–4A, Revision 4, dated March 15, 2018. | S/N 400 up to and including S/N 461. |
| | Paragraph 3.2.13, Removal of Rudder, of Section 6, Structures, of the Vulcanair Aircraft P.68 Observer 2 & P.68TC Observer Maintenance Manual, AMM10.702–2, Revision 8, dated November 11, 2021. | S/N 481 and larger. |

(ii) Perform a dye penetrant inspection of the hinges, paying particular attention to the pivot/attachment holes, using a dye penetrant solution for manual non-destructive testing using the following:

(A) Penetrant System: TYPE II (Visible Dye);

(B) METHOD C (Solvent Removable);

(C) Developer: FORM D (Non-aqueous); or

(D) Solvent Remover: CLASS 1 (Halogenated).

(2) If there is any looseness, corrosion, cracking, or damage, replace the hinge before further flight.

**(h) Special Flight Permit**

Special flight permits are prohibited.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) 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 certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD and email to: *9-AVS-AIR-730-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**

(1) For more information about this AD, contact John DeLuca, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7369; email: *john.p.deluca@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0267, dated November 24, 2021, for more information. You may view the EASA AD at regulations.gov in Docket No. FAA–2022–0813.

**(k) Material Incorporated by Reference**

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

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

(i) Vulcanair Aircraft Alert Service Letter No. 23, Revision 2, dated September 29, 2021.

(ii) Section 6, Structures, of the Vulcanair Aircraft P.68C & P.68C–TC Maintenance Manual, AMM10.702–1, Revision 7, dated May 11, 2021.

(iii) Section 6, Structures, of the Vulcanair Aircraft P.68 Observer 2 & P.68TC Observer Maintenance Manual, AMM10.702–2, Revision 8, dated November 11, 2021.

(iv) Section 6, Structures, of the Vulcanair Aircraft P.68R Maintenance Manual, AMM10.702–3, Revision 12, dated December 12, 2019.

(v) Section C, Airframe, of the Vulcanair Aircraft P68C Maintenance Manual, NOR10.709–1B, Revision 9, dated August 30, 2017.

(vi) Section C, Airframe, of the Vulcanair Aircraft P68–TC Observer Maintenance Manual, NOR10.709–4A, Revision 4, dated March 15, 2018.

(vii) Section B, Structure, of the Vulcanair Aircraft A/C P68B Victor Maintenance Manual, NOR.10.709–9, Revision 16, dated September 22, 2017.

(viii) Section C, Airframe, of the Vulcanair Aircraft P68 Observer 2 Maintenance Manual, NOR10.709–10, Revision 5, dated October 23, 2017.

(3) For service information identified in this AD, contact Vulcanair S.p.A., Fulvio Oloferni, via Giovanni Pascoli, 7, 80026 Naples, Italy; phone: +39 081 5918 135; email: *airworthiness@vulcanair.com;* website: *vulcanair.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 19, 2022.

**Christina Underwood,**

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

[FR Doc. 2022–22703 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–1074; Project Identifier MCAI–2021–00447–R; Amendment 39–22195; AD 2022–20–11]**

**RIN 2120–AA64**

## Airworthiness Directives; Bell Textron Canada Limited Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Canada Limited Model 429 helicopters. This AD was prompted by reports of failed rivets between the tailboom skin and the tail rotor (TR) gearbox support assembly. This AD requires visually inspecting the external surface of the TR gearbox support assembly, borescope inspecting or visually inspecting the inside of the tailboom for certain conditions, and performing a tactile inspection. Depending on the results of the inspections, this AD requires removing certain rivets from service or repairing gaps in accordance with an approved method. This AD also requires repeating these inspections within certain intervals. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 28, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of November 28, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–433–0272; email *productsupport@bellflight.com;* or at *bellflight.com/support/contact-support.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. Service information that is incorporated by reference is also available at *regulations.gov* by searching for and locating Docket No. FAA–2021–1074.

**Examining the AD Docket**

You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2021–1074; 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 Transport Canada AD, any comments received, and other information. The street 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:** Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@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 Bell Textron Canada Limited Model 429 helicopters, serial numbers (S/N) 57001 and subsequent. The NPRM published in the **Federal Register** on December 23, 2021 (86 FR 72891). In the NPRM, the FAA proposed to require visually inspecting the external surface of the TR gearbox support assembly, borescope inspecting or visually inspecting the inside of the tailboom for certain conditions, and performing a tactile inspection. Depending on the results of the inspections, the NPRM proposed to require removing certain rivets from service or repairing gaps in accordance with FAA-approved methods. The NPRM also proposed to require repeating these inspections within certain intervals.

The NPRM was prompted by Transport Canada AD CF–2021–15, dated April 14, 2021 (Transport Canada AD CF–2021–15), issued by Transport Canada, which is the aviation authority for Canada, to correct an unsafe condition for Bell Textron Canada Limited Model 429 helicopters, S/N 57001 and subsequent. Transport Canada advises of multiple in-service reports of failed rivets at the joint between the tailboom skin and the TR gearbox support assembly part number (P/N) 429–034–701–101 or P/N 429–035–705–101. Transport Canada states that in-service reports also revealed a quality escape resulted in a gapping condition between the tailboom skin and the TR gearbox support fitting at some locations around the joint, and that rivets of inadequate grip length have been installed at the affected joint. This condition, if not addressed, could result in progressive deterioration of the joint structural integrity, detachment of the TR gearbox support assembly and loss of control of the helicopter.

Accordingly, Transport Canada AD CF–2021–15 requires, for certain serial-numbered helicopters, an initial visual inspection of the rivets at the TR gearbox support assembly for signs of failed rivets or inadequate grip length. Transport Canada AD CF–2021–15 also requires, for all serial-numbered helicopters defined in the applicability, repeating the initial visual inspection at intervals not to exceed 400 hours air time or 12 months, whichever occurs first. Transport Canada AD CF–2021–15 also requires repair or replacement of affected parts if discrepancies are found. Transport Canada considers its AD an interim action and states that further AD action may follow.

After the FAA issued the NPRM, the FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to Bell Textron Canada Limited Model 429 helicopters, S/N 57001 and subsequent. The SNPRM published in the **Federal Register** on April 22, 2022 (87 FR 24077). The SNPRM proposed to require visually inspecting the external surface of the TR gearbox support assembly, borescope inspecting or visually inspecting the inside of the tailboom for certain conditions, and performing a tactile inspection. Depending on the results of the inspections, the SNPRM proposed to require removing certain rivets from service or repairing gaps in accordance with FAA-approved methods. The SNPRM also proposed to require repeating these inspections within certain intervals.

The SNPRM was prompted by the FAA's determination that due to thermal cycling, the compliance times in the NPRM should be revised to include calendar compliance times. According to Bell, thermal cycling is independent of flight hours (FH) and can occur when an aircraft is stationary and is also a significant contributor to the unsafe condition. Accordingly, the FAA determined the proposed paragraph (g) of the NPRM had to be revised by including calendar compliance times. Also, after the NPRM was issued, the FAA determined the proposed paragraph (g)(1)(iii) of the NPRM had to be revised by deleting the word ''not'' when referring to whether or not a rivet comes out when pulled with pliers or when pulled by hand. This wording was incorrect and the correct wording should only state ''does.'' Accordingly, these changes were included in the SNPRM.

## Discussion of Final Airworthiness Directive

### Comments

The FAA received one comment from Air Methods. The following presents the comment received on the SNPRM and the FAA's response.

### Request for More Information

The commenter stated Transport Canada AD CF–2021–15 requires replacing any rivets and repairing any gaps that exceed 0.005 in (0.127 mm) in accordance with an approved Bell structural repair scheme, whereas the proposed AD would require removing the rivets from service and repairing gaps in accordance with an FAA-approved method instead. The commenter stated that Bell does not normally provide FAA-approved documentation and requested that the FAA clarify whether the FAA is mandating receiving both a Bell Canada approval document and a separate 8110 from the FAA.

The FAA has revised paragraphs (g)(1)(i)(B) and (g)(1)(ii)(A)(*2*) of this final rule from ''repair the gaps in accordance with an FAA-approved method'' to ''repairing any gaps in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.'' The FAA also revised the Costs of Compliance section of this final rule to reflect these changes. These revisions clarify that operators are not limited to a single method of repair in order for a helicopter to be approved for return to service.

### Additional Changes Since the SNPRM was Issued

Since the FAA issued the SNPRM, the FAA has revised paragraphs (g)(1)(i)(A) and (B) of this final rule by adding the words ''replace the rivets removed from service by paragraph (g)(1)(i) of this AD with airworthy rivets.'' The FAA determined this revision clarifies which rivets should be replaced and that an airworthy rivet must be installed when these rivets are removed from service.

The FAA has also revised paragraphs (g)(1)(i) and (g)(1)(ii)(A) and (B) of this final rule by adding the words ''remove these rivets from service.'' The FAA determined this revision clarifies which rivets should be removed from service. Additionally, the FAA revised this final rule by adding paragraphs (g)(1)(ii)(A)(*1*) and (*2*) to this final rule, which describe the corrective actions that are required as a result of paragraph (g)(1)(ii)(A). The FAA determined this revision was necessary to clarify which rivets should be removed from service and replaced after the gap measurements.

The FAA has also revised paragraph (g)(1)(ii)(B) of this final rule by adding the words ''replace them with airworthy rivets.'' The FAA determined this revision clarifies that an airworthy rivet must be installed to replace the rivet(s) that were removed from service.

Additionally, the FAA revised the corrective action for any gaps that equal 0.005 in (0.127 mm). In the SNPRM, the FAA proposed repairing those gaps in accordance with an FAA-approved method and removing the rivets from service. In this final rule, the FAA requires removing certain rivets from service and replacing them with airworthy rivets for that condition instead.

Finally, the FAA revised paragraph (g)(1)(iii) of this final rule by adding the words ''remove any rivet from service that comes out when pulled with pliers or when pulled by hand and replace with an airworthy rivet.'' The FAA determined this revision was necessary to clarify which rivets should be removed from service if corrective action is needed as a result of the tactile inspection and that an airworthy rivet must be installed to replace the rivet that was removed from service.

## Conclusion

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to the FAA's bilateral

agreement with Canada, Transport Canada, its technical representative, has notified the FAA of the unsafe condition described in its AD. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. Except for minor editorial changes and any other changes described previously, this AD is adopted as proposed in the SNPRM.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed Bell Alert Service Bulletin (ASB) 429–19–47, Revision B, dated January 27, 2021. This service information specifies procedures for an initial and repetitive general visual inspections and detailed inspections of the affected rivets at the joint between the tailboom skin and the TR gearbox support assembly. This service information also specifies procedures for replacing the affected rivets and repairing the gaps in accordance with an approved Bell structural repair scheme.

This service information 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.

**Other Related Service Information**

The FAA also reviewed Bell ASB 429–19–47, dated August 28, 2019 (ASB 429–19–47), and Bell ASB 429–19–47, Revision A, dated November 2, 2020 (ASB 429–19–47 Rev A). ASB 429–19–47 specifies the same general visual inspection as ASB 429–19–47 Rev A however, ASB 429–19–47 Rev A introduces a repetitive inspection and specifies corrective actions if any discrepant rivets are found. ASB 429–19–47 Rev A specifies the same procedures for the initial and repetitive general visual inspections and detailed inspections as ASB 429–19–47 Rev B however, ASB 429–19–47 Rev B revises the compliance section, description section, and materials section, and also the accomplishment instructions.

**Interim Action**

The FAA considers this AD to be an interim action. Once final action has been identified, the FAA might consider further rulemaking.

**Differences Between This AD and the Transport Canada AD**

If there are any gaps that exceed 0.005 in (0.127 mm), Transport Canada AD CF–2021–15 requires replacing the rivets, repairing the gaps in accordance with an approved Bell structural repair scheme, and submitting certain information to the manufacturer. Whereas, if there are any gaps that exceed 0.005 in (0.127 mm), this AD requires removing the rivets from service and replacing the rivets with airworthy rivets. This AD also requires repairing those gaps in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited's Transport Canada DAO instead. If there are any gaps that are 0.005 in (0.127 mm) or less, Transport Canada AD CF–2021–15 requires replacing the rivets, whereas this AD requires removing the rivets from service and replacing them with airworthy rivets.

**Costs of Compliance**

The FAA estimates that this AD affects 120 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Visually inspecting the surface of the TR gearbox support assembly takes about 0.5 work-hour for an estimated cost of $43 per helicopter per inspection and $5,160 for the U.S. fleet per inspection.

If required, replacing an affected rivet takes about 1 work-hour and parts cost about $110 per rivet for an estimated cost of $195 per rivet replacement.

If required, measuring gaps takes about 0.5 work-hour for an estimated cost of $43 per helicopter.

If required, repairing a gap in accordance with an FAA-approved method takes up to about 1 work-hour for an estimated cost of up to $85 per repair. The FAA has no way to determine the cost estimate of repairing a gap using a method approved by Transport Canada, or Bell Textron Canada Limited's Transport Canada DAO.

Visually inspecting or borescope inspecting the inside of the tailboom takes about 0.5 work-hour for an estimated cost of $43 per helicopter per inspection and $5,160 for the U.S. fleet per inspection.

Performing a tactile inspection takes about 0.5 work-hour for an estimated cost of $43 per helicopter per inspection and $5,160 for the U.S. fleet per inspection.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**The Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2022–20–11 Bell Textron Canada Limited:** Amendment 39–22195; Docket No. FAA–2021–1074; Project Identifier MCAI–2021–00447–R.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 28, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bell Textron Canada Limited Model 429 helicopters, serial numbers (S/N) 57001 and subsequent, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 5302, Rotorcraft tailboom.

**(e) Unsafe Condition**

This AD was prompted by reports of failed rivets between the tailboom skin and the tail rotor (TR) gearbox support assembly. The FAA is issuing this AD to detect failed rivets and rivets with inadequate grip length. The unsafe condition, if not addressed, could result in deterioration of the joint structural integrity, detachment of the TR gearbox support assembly, and loss of helicopter control.

**(f) Compliance**

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

**(g) Required Actions**

(1) As of the effective date of this AD, for Model 429 helicopters S/N 57002 through 57210 inclusive and S/N 57212 and subsequent that have accumulated less than 300 total hours time-in-service (TIS), within 100 hours TIS or 6 months after accumulating 300 total hours TIS, whichever occurs first; or for Model 429 helicopters S/N 57002 through 57210 inclusive and S/N 57212 and subsequent that have replaced the TR gearbox support assembly part number (P/N) 429–034–701–101 or P/N 429–035–705–101 and the helicopter has accumulated less than 300 total hours TIS since the replacement of the TR gearbox support assembly, within 100 hours TIS or 6 months after accumulating 300 total hours TIS since the replacement, whichever occurs first:

(i) Visually inspect the external surface of the TR gearbox support assembly for any rivet heads that have separated from their tail. If there are any rivet heads that have separated from their tail, before further flight, remove these rivets from service and measure any gaps between the TR gearbox support assembly and the tailboom skin by following the Accomplishment Instructions, Part I, paragraphs 9.b. through 9.d. of Bell Alert Service Bulletin 429–19–47, Revision B, dated January 27, 2021 (ASB 429–19–47 Rev B).

(A) If there are no gaps or if any gap measures 0.005 in (0.127 mm) or less, before further flight, replace the rivets removed from service by paragraph (g)(1)(i) of this AD with airworthy rivets.

(B) If there are any gaps that exceed 0.005 in (0.127 mm), before further flight, repair the gaps, and replace the rivets removed from service by paragraph (g)(1)(i) of this AD with airworthy rivets. This AD requires repairing any gaps in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(ii) Borescope inspect or use a light source and mirror to visually inspect each rivet inside the tailboom for any missing rivet tails, any rivet tails resting at the bottom of the tailboom, and any rivet tails not resting against the tailboom skin.

(A) If there are any missing rivet tails, or any rivet tails resting at the bottom of the tailboom, before further flight, remove these rivets from service, and measure any gaps between the TR gearbox support assembly and the tailboom skin by following the Accomplishment Instructions, Part I, paragraphs 9.b. through 9.d. of ASB 429–19–47 Rev B.

(*1*) If there are no gaps or if any gap measures 0.005 in (0.127 mm) or less, before further flight, replace the rivets removed from service by paragraph (g)(1)(ii)(A) of this AD with airworthy rivets.

(*2*) If there are any gaps that exceed 0.005 in (0.127 mm), before further flight, repair the gaps, and replace the rivets removed from service by paragraph (g)(1)(ii)(A) of this AD with airworthy rivets. This AD requires repairing any gaps in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited's Transport Canada DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(B) If there are any rivet tails not resting against the tailboom skin, before further flight, remove these rivets from service and replace them with airworthy rivets.

(iii) Perform a tactile inspection of the rivets identified in Figure 1 of ASB 429–19–47 Rev B, by pulling on each rivet tail with pliers or pulling by hand. If any rivet does come out when pulled with pliers or when pulled by hand, before further flight, remove any rivet from service that comes out when pulled with pliers or when pulled by hand and replace with an airworthy rivet.

(2) For Model 429 helicopters S/N 57002 through 57210 inclusive and S/N 57212 and subsequent that are not identified in paragraph (g)(1) of this AD, within 100 hours TIS or 6 months after the effective date of this AD, whichever occurs first, perform the actions as specified in paragraphs (g)(1)(i) through (iii) of this AD.

(3) For Model 429 helicopters S/N 57002 through 57210 inclusive and S/N 57212 and subsequent, within 400 hours TIS or 12 months, whichever occurs first after the initial inspections required by paragraph (g)(1) or (2) of this AD, as applicable to your helicopter, and thereafter at intervals not to exceed 400 hours TIS or 12 months, whichever occurs first, accomplish the actions required by paragraphs (g)(1)(i) through (iii) of this AD.

(4) For Model 429 helicopters S/N 57001 and 57211, within 400 hours TIS or 12 months after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 400 hours TIS or 12 months, whichever occurs first, accomplish the actions required by paragraphs (g)(1)(i) through (iii) of this AD.

**(h) Credit for Previous Actions**

This paragraph provides credit for the actions specified in paragraphs (g)(1) and (2) of this AD, if those actions were performed before the effective date of this AD using Bell Alert Service Bulletin 429–19–47, Revision A, dated November 2, 2020; or Bell Alert Service Bulletin 429–19–47, dated August 28, 2019.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) 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 (j)(1) of this AD. Information may be emailed to: *9-AVS-AIR-730-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) Related Information**

(1) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(2) Bell Alert Service Bulletin 429–19–47, Revision A, dated November 2, 2020; and Bell Alert Service Bulletin 429–19–47, dated August 28, 2019, which are not incorporated by reference, contain additional information about the subject of this AD. This service information is available at the contact information specified in paragraphs (k)(3) and (4) of this AD.

(3) The subject of this AD is addressed in Transport Canada AD CF–2021–15, dated April 14, 2021. You may view the Transport Canada AD on the internet at *regulations.gov* in Docket No. FAA–2021–1074.

**(k) Material Incorporated by Reference**

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

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

(i) Bell Alert Service Bulletin 429–19–47, Revision B, dated January 27, 2021.

(ii) [Reserved]

(3) For Bell service information identified in this AD, contact Bell Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J 1R4, Canada; telephone 1–450–437–2862 or 1–800–363–8023; fax 1–450–

433–0272; email *productsupport@bellflight.com;* or at *bellflight.com/support/contact-support.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on September 19, 2022.

**Christina Underwood,**

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

[FR Doc. 2022–22593 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0292; Project Identifier AD–2021–01297–E; Amendment 39–22184; AD 2022–19–15]**

**RIN 2120–AA64**

## Airworthiness Directives; International Aero Engines, LLC Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. That AD applies to certain International Aero Engines, LLC (IAE LLC) PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines. The table numbers of the service information referenced in paragraphs (g)(2) and (3) are incorrect. This document corrects those errors. In all other respects, the original document remains the same.

**DATES:** This correction is effective November 7, 2022. The effective date of AD 2022–19–15 remains November 7, 2022.

**ADDRESSES:**

*AD Docket:* You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0292, 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.

*Material Incorporated by Reference:*

- For Pratt & Whitney service information identified in this final rule, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118; phone: (860) 690–9667; email: *help24@pw.utc.com;* website: *connect.prattwhitney.com.*
- You may view this service information at the FAA, Airworthiness Products Section, 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:** Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: *Mark.Taylor@faa.gov.*

**SUPPLEMENTARY INFORMATION:** AD 2022–19–15, Amendment 39–22184 (AD 2022–19–15), requires performing an ultrasonic inspection (USI) of the high-pressure turbine (HPT) 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacement of the HPT 1st-stage disk or HPT 2nd-stage disk for certain IAE LLC PW1122G–JM, PW1124G1–JM, PW1124G JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines.

### Need for the Correction

As published, the table numbers of the service information referenced in Required Actions, paragraphs (g)(2) and (3) of AD 2022–19–15, are incorrect. The table numbers are incorrectly referenced in paragraphs (g)(2) and (3) as ''Table 2.'' and ''Table 3.,'' of Pratt & Whitney Service Bulletin (SB) PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022. The correct table number for paragraph (g)(2) is ''Table 3.'' and for paragraph (g)(3) is ''Table 4.,'' of PW SB PW1000G–C–72–00–0188–00A–930A–D.

No other part of the preamble or regulatory information has been changed; for convenience, the entire rule is being republished.

The effective date of this AD remains November 7, 2022.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed Pratt & Whitney SB PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022. This service information specifies procedures for performing a USI of the HPT 1st-stage disk and the HPT 2nd-stage disk, identified by part number and serial number, installed on IAE LLC PW1124G1–JM, PW1127G–JM, PW1127GA–JM, PW1129G–JM, PW1130G–JM, PW1133G–JM, and PW1133GA–JM model turbofan engines. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) by correcting 87 FR 59660 (October 3, 2022) beginning at page 59663, column 3 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Corrected]**

■ 2. The FAA corrects § 39.13 by correcting the following airworthiness directive to read:

**2022–19–15 International Aero Engines, LLC:** Amendment 39–22184; Docket No. FAA–2022–0292; Project Identifier AD–2021–01297–E.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 7, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to International Aero Engines, LLC PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines with an installed:

(1) High-pressure turbine (HPT) 1st-stage disk, part numbers (P/Ns) 30G4201, 30G6201, or 30G7301; and

(2) HPT 2nd-stage disk, P/Ns 30G3902, 30G5502, or 30G6602.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by an analysis of an event involving an International Aero Engines AG V2533–A5 model turbofan engine, which experienced an uncontained failure of an HPT 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. The FAA is issuing this AD to prevent failure of the HPT 1st-stage disk and HPT 2nd-stage disk. The unsafe condition, if not addressed, could result in uncontained HPT disk 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**

(1) For affected engines that have not incorporated Pratt & Whitney (PW) Service Bulletin (SB) PW1000G–C–72–00–0112–00A–930A–D, at the next engine shop visit after the effective date of this AD, perform the following:

(i) Ultrasonic inspection (USI) of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 9.A. or B., as applicable, of PW SB PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022 (PW SB PW1000G–C–72–00–0188–00A–930A–D); and

(ii) USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 9.C. or D., as applicable, of PW SB PW1000G–C–72–00–0188–00A–930A–D.

(2) For affected engines that have incorporated PW SB PW1000G–C–72–00–0112–00A–930A–D, with an installed HPT 1st-stage disk having a serial number (S/N) identified in the Accomplishment Instructions, Table 3., of PW SB PW1000G–C–72–00–0188–00A–930A–D, at the next engine shop visit after the effective date of this AD, perform a USI of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 9.A. or B., as applicable, of PW SB PW1000G–C–72–00–0188–00A–930A–D.

(3) For affected engines that have incorporated PW SB PW1000G–C–72–00–0112–00A–930A–D, with an installed HPT 2nd-stage disk having an S/N identified in the Accomplishment Instructions, Table 4., of PW SB PW1000G–C–72–00–0188–00A–930A–D, at the next engine shop visit after the effective date of this AD, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 9.C. or D., of PW SB PW1000G–C–72–00–0188–00A–930A–D.

(4) Based on the results of the USIs required by paragraphs (g)(1) through (3) of this AD, if any HPT 1st-stage disk or HPT 2nd-stage disk does not pass the USI, as specified in the Accomplishment Instructions, paragraphs 9.A. through D., of PW SB PW1000G–C–72–00–0188–00A–930A–D, as applicable, before further flight, remove the HPT 1st-stage disk or HPT 2nd-stage disk from service and replace with a part eligible for installation.

(5) For affected engines that have incorporated PW SB PW1000G–C–72–00–0112–00A–930A–D and do not require an inspection per paragraph (g)(2) or (3) of this AD, no further action is required.

**(h) Definitions**

(1) For the purpose of this AD, a ''part eligible for installation'' is:

(i) Any HPT 1st-stage disk that has passed the USI required by paragraphs (g)(1)(i) or (g)(2) of this AD.

(ii) Any HPT 2nd-stage disk that has passed the USI required by paragraphs (g)(1)(ii) or (g)(3) of this AD.

(iii) Any HPT 1st-stage disk that has incorporated PW SB PW1000G–C–72–00–0112–00A–930A–D and does not require an inspection per paragraph (g)(2) of this AD.

(iv) Any HPT 2nd-stage disk that has incorporated PW SB PW1000G–C–72–00–0112–00A–930A–D and does not require an inspection per paragraph (g)(3) of this AD.

(v) Any HPT 1st-stage disk or HPT 2nd-stage disk with a certificate of conformance that shows ''PW1000G–C–72–00–0188–00A–930A–D,'' ''1 CODE 45S,'' or identified by part marking ''21CC332'' or ''SB 72–0188.''

(2) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of the ''M'' flange. Separation of the ''M'' flange solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

**(i) Credit for Previous Actions**

You may take credit for the USIs required by paragraphs (g)(1) through (3) of this AD if you performed the USIs before the effective date of this AD using PW SB PW1000G–C–72–00–0188–00A–930A–D, Issue No: 001, dated September 13, 2021.

**(j) Installation Prohibition**

After the effective date of this AD, do not install onto any engine an HPT 1st-stage disk or HPT 2nd-stage disk that does not meet the definition of a part eligible for installation in paragraph (h)(1) of this AD.

**(k) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, ECO 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 certification office, send it to the attention of the person identified in paragraph (l)(1) of this AD and email to: *ANE-AD-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.

**(l) Related Information**

(1) For more information about this AD, contact Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: *Mark.Taylor@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

**(m) Material Incorporated by Reference**

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

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

(i) Pratt & Whitney Service Bulletin PW1000G–C–72–00–0188–00A–930A–D, Issue No: 002, dated July 8, 2022.

(ii) [Reserved]

(3) For Pratt & Whitney service information identified in this AD, contact International Aero Engines, LLC, 400 Main Street, East Hartford, CT 06118; phone: (860) 690–9667; email: *help24@pw.utc.com;* website: *connect.prattwhitney.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, 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 service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on October 20, 2022.

**Christina Underwood,**

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

[FR Doc. 2022–23168 Filed 10–20–22; 11:15 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2022–0230; Airspace Docket No. 19–AAL–40]**

**RIN 2120–AA66**

## Establishment of United States Area Navigation (RNAV) Route T–371; Kodiak, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes RNAV route T–371 in the vicinity of Kodiak, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska.

**DATES:** Effective date 0901 UTC, December 29, 2022. The Director of the Federal Register approves this incorporation by reference action under

1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV in Alaska and improves the efficient flow of air traffic within the National Airspace System by lessening the dependency on ground based navigation.

**History**

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2022–0230 in the **Federal Register** (87 FR 16676; March 24, 2022), establishing RNAV route T–371 in the vicinity of Kodiak, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. No comments were received.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be published subsequently in FAA Order JO 7400.11.

**Differences From the NPRM**

In the NPRM, the JEKEX, AK, and AMOTT, AK, route points were each incorrectly referenced and listed as waypoints (WPs). Both of the listed route points are actually Fixes. This action corrects that error by listing each of them as a Fix. These corrections are editorial only and do not change the alignment of T–371.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This action amends 14 CFR part 71 by establishing RNAV route T–371 in the vicinity of Kodiak, AK, in support of a large and comprehensive T-route modernization project in the state of Alaska. The new route is described below.

*T–371:* T–371 is established between the Kodiak, AK (ODK), VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) navigational aid and the AMOTT, AK, Fix to provide an alternate route capability to Colored Federal airway G–10. T–371 also provides instrument approach procedure connectivity to Homer Airport and Kodiak Airport in Alaska, lower Global Navigation Satellite System (GNSS) Minimum Enroute Altitudes (MEAs), and continuous two-way VHF voice communications along the route. The full route description of the new route is listed in the amendment to part 71 as set forth below.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**Regulatory Notices and Analyses**

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

**Environmental Review**

The FAA has determined that this airspace action of establishing RNAV route T–371 in the vicinity of Kodiak, AK, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5i, which categorically excludes from further environmental review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Amendment**

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

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

*Paragraph 6011 United States Area Navigation Routes.*

* * * * *

**T–371 Kodiak, AK (ODK) to AMOTT, AK [New]**

| | | |
|---|---|---|
| Kodiak, AK (ODK) | VOR/DME | (Lat. 57°46′30.13″ N, long. 152°20′23.42″ W) |
| JEKEX, AK | FIX | (Lat. 59°23′25.46″ N, long. 151°48′10.08″ W) |
| AMOTT, AK | FIX | (Lat. 60°52′26.59″ N, long. 151°22′23.60″ W) |

* * * * *

Issued in Washington, DC, on October 11, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022–22497 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2021–1152; Airspace Docket No. 19–AAL–72]**

**RIN 2120–AA66**

## Amendment of United States Area Navigation (RNAV) Route T–269; Yakutat, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends United States Area Navigation (RNAV) route T–269 in the vicinity of Yakutat, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska.

**DATES:** Effective date 0901 UTC, December 29, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV routes in the state of Alaska and improves the efficient flow of air traffic within the National Airspace System by lessening the dependency on ground based navigation.

**History**

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–1152 in the **Federal Register** (86 FR 74004; December 29, 2021), amending RNAV route T–269 in the vicinity of Yakutat, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. There were no comments received.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The RNAV T-route listed in this document will be published subsequently in FAA Order JO 7400.11.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This action amends 14 CFR part 71 by amending RNAV route T–269 in the vicinity of Yakutat, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska. The route amendment is described below.

*T–269:* This action amends T–269 between the Yakutat, AK (YAK), VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) and the Johnstone Point, AK (JOH), VOR/DME by including six new waypoints (WPs) on the route segment in order to allow for a lower Global Navigation Satellite System (GNSS) Minimum En route Altitude (MEA) in those segmented areas. This action also corrects the legal description to remove points where there is no turn along the route.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**Regulatory Notices and Analyses**

The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under

Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this airspace action of amending RNAV route T–269 in the vicinity of Yakutat, AK, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5i, which categorically excludes from further environmental review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Amendment**

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

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

*Paragraph 6011 United States Area Navigation Routes*

* * * * *

**T–269 Annette Island, AK (ANN) to MKLUK, AK [Amended]**

| | | |
|---|---|---|
| Annette Island, AK (ANN) | VOR/DME | (Lat. 55°03′37.47″ N, long. 131°34′42.24″ W) |
| Biorka Island, AK (BKA) | VORTAC | (Lat. 56°51′33.87″ N, long. 135°33′04.72″ W) |
| Yakutat, AK (YAK) | VOR/DME | (Lat. 59°30′38.99″ N, long. 139°38′53.26″ W) |
| MALAS, AK | WP | (Lat. 59°39′58.52″ N, long. 140°34′57.61″ W) |
| OXIDS, AK | WP | (Lat. 59°41′51.68″ N, long. 141°03′17.73″ W) |
| FOGNU, AK | WP | (Lat. 59°53′31.88″ N, long. 141°49′02.83″ W) |
| HORGI, AK | WP | (Lat. 60°00′04.68″ N, long. 142°35′23.34″ W) |
| ZIXIM, AK | WP | (Lat. 60°03′48.75″ N, long. 143°13′27.77″ W) |
| JOVOM, AK | WP | (Lat. 60°07′40.55'' N, long. 143°42′56.99″ W) |
| OXUGE, AK | WP | (Lat. 60°06′15.81″ N, long. 144°13′28.54″ W) |
| KATAT, AK | WP | (Lat. 60°15′29.17″ N, long. 144°42′18.77″ W) |
| Johnstone Point, AK (JOH) | VOR/DME | (Lat. 60°28′51.43″ N, long. 146°35′57.61″ W) |
| Anchorage, AK (TED) | VOR/DME | (Lat. 61°10′04.32″ N, long. 149°57′36.51″ W) |
| MKLUK, AK | WP | (Lat. 60°26′40.04″ N, long. 165°55′17.28″ W) |

* * * * *

Issued in Washington, DC, on October 11, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022–22496 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2022–0167; Airspace Docket No. 22–AGL–14]**

**RIN 2120–AA66**

## Establishment of Class D Airspace; Chicago/Romeoville, IL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action establishes Class D airspace at Chicago/Romeoville, IL. This action supports the establishment of an air traffic control tower at Lewis University Airport, Chicago/Romeoville, IL.

**DATES:** Effective 0901 UTC, December 29, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class D airspace at Lewis University Airport, Chicago/Romeoville, IL, to support instrument flight rule operations at this airport.

**History**

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (87 FR 16435; March 23, 2022) for Docket No. FAA–2022–0167 to establish Class D airspace at Chicago/Romeoville, IL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Eleven (11) comments were received. Ten (10) recommending a reduction in the proposed airspace, and two (2) stating that the air traffic control tower and airspace were not necessary. The following responses are provided.

In response to the recommendations that the airspace be reduced: The FAA has reviewed the recommendations, and determined that an exclusion area could be supported as well as reducing the vertical limit of the airspace from 3,200 feet MSL to 2,900 feet MSL. This area is not as large as that recommended in the comments due to requirements for the airspace to protect the instrument procedures at Lewis University Airport as required by FAA Order JO 7400.2N, Procedures for Handling Airspace Matters.

In response to the comments regarding the need for the air traffic control tower and associated airspace: The Joliet Regional Port District commissioned the construction of an air traffic control tower in accordance with (IAW) applicable FAA orders and directives, and applied for air traffic services through the FAA Contract Tower program IAW FAA Order JO 7210.78, FAA Contract Tower (FCT) New Start and Replacement Tower Process. LOT has since been accepted into the FCT program. The LOT FCT will provide terminal services and thus requires class D airspace IAW FAA Order JO 74002.N.

Class D airspace designations are published in paragraph 5000 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

**Availability and Summary of Documents for Incorporation by Reference**

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**Differences From the NPRM**

An exclusion area has been added to the airspace legal description and the vertical limit of the airspace reduced from 3,200 feet MSL to 2,900 feet MSL in response to the comments received from the NPRM. As these changes are a reduction in the airspace previously proposed, they have been incorporated into this final rule.

The term ''Notice to Airmen'' has been updated to ''Notice to Air Missions'' since the NPRM was published. As this is an administrative amendment and does not affect the airspace as proposed in the NPRM, this update has been incorporated into this action.

**The Rule**

This amendment to 14 CFR part 71 establishes Class D airspace within a 4.1-mile radius of Lewis University Airport, Chicago/Romeoville, IL, extending from the surface up to and including 2,900 feet MSL excluding that area north of a line from lat. 41°37′56″ N, long. 88°10′54″ W to lat. 41°40′21″ N, long. 88°06′02″ W to lat. 41°40′35″ N, long. 88°05′57″ W.

This action supports the establishment of an air traffic control tower at Lewis University Airport.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**Regulatory Notices and Analyses**

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

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

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

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

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

**71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

*Paragraph 5000 Class D Airspace.*

* * * * *

**AGL IL D Chicago/Romeoville, IL [Establish]**

Lewis University Airport, IL
(Lat. 41°36′29″ N, long. 88°05′47″ W)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.1-mile radius of Lewis University Airport excluding that area north of a line from lat. 41°37′56″ N, long. 88°10′54″ W to lat. 41°40′21″ N, long. 88°06′02″ W to lat. 41°40′35″ N, long. 88°05′57″ W. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Issued in Fort Worth, Texas, on October 12, 2022.

**Martin A. Skinner,**

*Acting Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2022–22498 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2021–1106; Airspace Docket No. 19–AAL–70]**

**RIN 2120–AA66**

## Amendment of United States Area Navigation (RNAV) Route T–266; Juneau, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends United States Area Navigation (RNAV) route T–266 in the vicinity of Juneau, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska.

**DATES:** Effective date 0901 UTC, December 29, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**FOR FURTHER INFORMATION CONTACT:** Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV in Alaska and improves the efficient flow of air traffic within the National Airspace System by lessening the dependency on ground based navigation.

### History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2021–1106 in the **Federal Register** (86 FR 71409; December 16, 2021), amending RNAV route T–266 in the vicinity of Juneau, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. No comments were received.

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be published subsequently in FAA Order JO 7400.11.

### Differences From the NPRM

In the NPRM, the RADKY, AK, and DOOZI, AK, route points were incorrectly listed as a waypoint (WP) instead of correctly identifying them as a Fix. This action corrects that error and lists the RADKY, AK, and DOOZI, AK, route points as a Fix.

Additionally, the T–266 description in the regulatory text section of the NPRM lists the route points in a north to south orientation instead of south to north in accordance with existing regulatory guidance. This action reverses the route points listed in the T–266 description to reflect them in a south to north orientation.

These corrections are editorial only and do not change the alignment of T–266.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Rule

This action amends 14 CFR part 71 by amending RNAV route T–266 in the vicinity of Juneau, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska. The route amendment is described below.

*T–266:* T–266 extends between the Annette Island, AK (ANN),VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) navigational aid and the RADKY, AK, Fix. The route is amended by extending it northward from the RADKY, AK, Fix to the SPUTA, AK, WP and removing the FOGID, AK, WP and the NEREE, AK, WP from the description since they are not turn points. The full route description of the amended route is listed in the amendment to part 71 as set forth below.

FAA Order JO 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

### Regulatory Notices and Analyses

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

number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this airspace action of amending RNAV route T–266 in the vicinity of Juneau, AK, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5i, which categorically excludes from further environmental review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Amendment**

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

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

*Paragraph 6011 United States Area Navigation Routes.*

* * * * *

**T–266 Annette Island, AK (ANN) to SPUTA, AK [Amended]**

| | | |
|---|---|---|
| Annette Island, AK (ANN) | VOR/DME | (Lat. 55°03′37.47″ N, long. 131°34′42.24″ W) |
| DOOZI, AK | FIX | (Lat. 55°37′57.14″ N, long. 132°10′28.73″ W) |
| VAZPU, AK | WP | (Lat. 56°27′24.00″ N, long. 132°25′56.00″ W) |
| YICAX, AK | WP | (Lat. 56°39′45.00″ N, long. 132°37′00.00″ W) |
| VULHO, AK | WP | (Lat. 56°49′05.00″ N, long. 132°49′30.00″ W) |
| XADZY, AK | WP | (Lat. 57°01′00.00″ N, long. 133°00′00.00″ W) |
| RADKY, AK | FIX | (Lat. 58°08′00.39″ N, long. 134°29′55.53″ W) |
| ZADED, AK | WP | (Lat. 58°20′24.09″ N, long. 134°48′30.77″ W) |
| ZONPU, AK | WP | (Lat. 58°31′22.14″ N, long. 134°59′35.61″ W) |
| GUMLE, AK | WP | (Lat. 58°35′18.69″ N, long. 135°02′58.46″ W) |
| NIGPE, AK | WP | (Lat. 58°38′44.99″ N, long. 135°04′28.66″ W) |
| JAPOR, AK | WP | (Lat. 58°45′45.29″ N, long. 135°09′08.84″ W) |
| COPOG, AK | WP | (Lat. 58°53′31.17″ N, long. 135°19′57.44″ W) |
| WONOS, AK | WP | (Lat. 59°00′16.62″ N, long. 135°20′12.89″ W) |
| ROTVE, AK | WP | (Lat. 59°05′52.67″ N, long. 135°21′43.16″ W) |
| BAVKE, AK | WP | (Lat. 59°12′43.71″ N, long. 135°25′39.26″ W) |
| FEDMI, AK | WP | (Lat. 59°18′38.28″ N, long. 135°23′31.15″ W) |
| AKCAP, AK | WP | (Lat. 59°27′36.23″ N, long. 135°18′56.39″ W) |
| SPUTA, AK | WP | (Lat. 59°42′42.73″ N, long. 135°16′41.88″ W) |

* * * * *

Issued in Washington, DC, on October 11, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022–22411 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Parts 100, 147, and 165

**[Docket Number USCG–2021–0833]**

## 2021 Quarterly Listings; Safety Zones, Security Zones, and Special Local Regulations AGENCY: Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Notification of expired temporary rules issued.

**SUMMARY:** This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, and special local regulations, all of limited duration and for which timely publication in the **Federal Register** was not possible. This document also announces notifications of enforcement for existing reoccurring regulations that we issued but were unable to be published before the enforcement period ended.

**DATES:** This document lists temporary Coast Guard rules and notifications of enforcement that became effective or enforceable, primarily between April 2021 and June 2021, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

**ADDRESSES:** Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For questions on this document contact Yeoman First Class Glenn Grayer, Office of Regulations and Administrative Law, telephone (202) 372–3862.

**SUPPLEMENTARY INFORMATION:** Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Timely publication of notifications of enforcement of reoccurring regulations may be precluded when the event occurs with short notice or other agency procedural restraints.

Because **Federal Register** publication was not possible before the end of the effective or enforcement period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas, or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas, and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. In some of our reoccurring regulations, we say we will publish a notice of enforcement as one of the means of notifying the public. We use this notification to announce those notifications of enforcement that we issued and will post them to their dockets.

The following unpublished rules were placed in effect temporarily during the period between April 2021 and June 2021 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the following table.

| Docket No. | Type of regulation | Location | Enforcement date |
|---|---|---|---|
| USCG–2021–0232 | Safety Zones (Parts 147 and 165) | League City, TX | 4/17/2021 |
| USCG–2021–0279 | Safety Zones (Parts 147 and 165) | Port Fourchon, LA | 4/21/2021 |
| USCG–2021–0271 | Safety Zones (Parts 147 and 165) | Wellsburg, WV | 4/23/2021 |
| USCG–2021–0268 | Safety Zones (Parts 147 and 165) | Cleveland, OH | 4/29/2021 |
| USCG–2021–0265 | Safety Zones (Parts 147 and 165) | Vilano Beach, FL | 4/30/2021 |
| USCG–2021–0300 | Special Local Regulations (Part 100) | Seattle, WA | 5/1/2021 |
| USCG–2021–0310 | Security Zones (Part 165) | Lake Charles, LA | 5/6/2021 |
| USCG–2021–0115 | Security Zones (Part 165) | Ocean City, MD | 5/8/2021 |
| USCG–2021–0256 | Safety Zones (Parts 147 and 165) | Horry County, SC | 5/10/2021 |
| USCG–2021–0342 | Security Zones (Part 165) | North Kingston, RI | 5/19/2021 |
| USCG–2021–0359 | Safety Zones (Parts 147 and 165) | Corpus Christi, TX | 5/27/2021 |
| USCG–2021–0192 | Safety Zones (Parts 147 and 165) | Sturgeon Bay, WI | 5/29/2021 |
| USCG–2021–0080 | Special Local Regulations (Part 100) | Jones Beach, NY | 5/31/2021 |
| USCG–2021–0365 | Security Zones (Part 165) | Rehoboth Beach, DE | 6/2/2021 |
| USCG–2021–0074 | Safety Zones (Parts 147 and 165) | Elizabeth, PA | 6/6/2021 |
| USCG–2021–0328 | Safety Zones (Parts 147 and 165) | Buffalo, NY | 6/17/2021 |
| USCG–2021–0413 | Security Zones (Part 165) | Newport, DE | 6/18/2021 |
| USCG–2021–0479 | Safety Zones (Parts 147 and 165) | Detroit, MI | 6/21/2021 |
| USCG–2021–0471 | Security Zones (Part 165) | New Orleans, LA | 6/25/2021 |
| USCG–2021–0436 | Safety Zones (Parts 147 and 165) | Richland, WA | 6/25/2021 |
| USCG–2021–0216 | Special Local Regulations (Part 100) | Sunrise Beach, MO | 6/26/2021 |
| USCG–2021–0244 | Safety Zones (Parts 147 and 165) | Port Long Island Sound | 6/26/2021 |
| USCG–2021–0263 | Special Local Regulations (Part 100) | Hendersonville, TN | 6/26/2021 |
| USCG–2021–0484 | Safety Zones (Parts 147 and 165) | Alameda, CA | 6/27/2021 |
| USCG–2021–0486 | Safety Zones (Parts 147 and 165) | Ingleside, TX | 6/29/2021 |

Dated: October 19, 2022.

**M.T. Cunningham,**

*Chief, Office of Regulations and Administrative Law, United States Coast Guard.*

[FR Doc. 2022–23022 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R04–OAR–2021–0569; FRL–10136–02–R4]**

## Air Plan Approval; TN; Updates to References to Appendix W Modeling Guideline

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Tennessee on April 9, 2021. Specifically, EPA is approving updates to the incorporation by reference of Federal guidelines on air quality modeling in the Tennessee SIP. EPA is also converting the previous conditional approval regarding infrastructure SIP prevention of significant deterioration (PSD) elements for the 2015 ozone national ambient air quality standards (NAAQS) for Tennessee to a full approval. EPA is approving this revision pursuant to the Clean Air Act (CAA or Act).

**DATES:** This rule is effective November 23, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2021–0569. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8085. Mr. Ortiz Borrero can also be reached via electronic mail at *ortizborrero.josue@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On October 1, 2015, EPA promulgated revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements, such as requirements for monitoring, basic program requirements, and legal authority, that are designed to assure attainment and maintenance of the NAAQS. This type of SIP is commonly referred to as an ''infrastructure SIP'' or ''iSIP.'' States were required to submit such SIP revisions for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.[1]

On September 13, 2018, Tennessee met the requirement to submit an iSIP for the 2015 8-hour ozone NAAQS by the October 1, 2018, deadline. Through previous rulemakings, EPA approved most of the infrastructure SIP elements for the 2015 ozone NAAQS for Tennessee.[2] [3] However, regarding the PSD elements of section 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) (herein referred to as element C, Prong 3, and element J, respectively), EPA conditionally approved [4] these portions of Tennessee's iSIP submission because of outdated references to the Federal guidelines on air quality modeling found in appendix W of 40 CFR part 51.[5] As previously mentioned, all other applicable iSIP requirements for Tennessee for the 2015 8-hour ozone NAAQS were addressed or will be addressed in separate rulemakings.

For elements C and J to be approved for PSD, a state needs to demonstrate that its SIP meets the PSD-related infrastructure requirements of these sections. These requirements are met if the state's implementation plan includes a PSD program that meets current Federal requirements. Prong 3 is also approvable when a state's implementation plan contains a fully approved, up-to-date PSD program. EPA's PSD regulations at 40 CFR 51.166(l) require that modeling be conducted in accordance with appendix W, *Guideline on Air Quality Models.* EPA promulgated the most current version of appendix W on January 17, 2017 (82 FR 5182). Therefore, for the iSIP PSD elements for the 2015 8-hour ozone NAAQS to be approved, the PSD regulations in the SIP must reference the most current version of appendix W.

As discussed in EPA's April 9, 2020, conditional approval of the 2015 ozone iSIP PSD elements for Tennessee, the State's SIP contained outdated references to appendix W. The State committed to updating the outdated references and submitting a SIP revision within one year of EPA's final rule conditionally approving these PSD elements. Accordingly, Tennessee was required to submit a SIP revision by April 9, 2021. Tennessee met its commitment by submitting a SIP revision to correct the deficiencies before the deadline.

In a notice of proposed rulemaking (NPRM), published on August 24, 2022 (87 FR 51944), EPA proposed to approve changes to the Tennessee SIP and to convert the conditional approval to a full approval for Tennessee regarding element C, Prong 3, and element J, for the 2015 8-hour ozone NAAQS infrastructure SIP. The details of Tennessee's submission and the rationale for EPA's action are explained in the NPRM. Comments on the August 24, 2022, NPRM were due on or before September 23, 2022. EPA did not receive any comments on the August 24, 2022, NPRM.

[1] In infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

[2] EPA approved most elements for Tennessee, except for the Interstate Transport provisions (Prongs 1 and 2), and the PSD provisions (element C, Prong 3, and J), on December 26, 2019. *See* 84 FR 70895.

[3] The Interstate Transport provisions (Prongs 1 and 2) for Tennessee have been proposed for disapproval, but that action has not yet been finalized. *See* 87 FR 9545 (February 22, 2022).

[4] Under CAA section 110(k)(4), EPA may conditionally approve a SIP revision based on a commitment from a state to adopt specific enforceable measures by a date certain, but not later than one year from the date of approval. If the state fails to meet the commitment within one year of the final conditional approval, the conditional approval will be treated as a disapproval and EPA will issue a finding of disapproval.

[5] For the State of Tennessee, EPA conditionally approved the PSD provisions of element C, Prong 3, and element J, on April 9, 2020. *See* 85 FR 19888.

## II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Tennessee Rules 1200–03–09–.01, *Construction Permits,*[6] and 1200–03–21-.01, *General Alternate Emission Standard,* state effective on April 22, 2021, which address outdated references to EPA's modeling guidelines in order to meet PSD iSIP requirements for the 2015 8-hour ozone NAAQS. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## III. Final Action

EPA is approving changes to the Tennessee SIP and converting the conditional approval for element C, Prong 3, and element J for the 2015 8-hour ozone Infrastructure SIP to a full approval. Specifically, EPA is approving changes to Tennessee Rules 1200–03–09–.01, *Construction Permits,* and 1200–03–21–.01, *General Alternate Emission Standard.*

## IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 23, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2) of the CAA.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Daniel Blackman,**

*Regional Administrator, Region 4.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart RR—Tennessee

### § 52.2219 [Removed and Reserved]

■ 2. Remove and reserve § 52.2219.

■ 3. In § 52.2220:

■ a. In paragraph (c), amend Table 1 by revising the entries for ''Section 1200–3–9–.01'' and ''Section 1200–3–21–.01''.

■ b. In paragraph (e), amend the table by adding at the end an entry for ''110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS''.

The revisions and addition read as follows:

### § 52.2220 Identification of plan.

* * * * *

[6] EPA is not incorporating the April 22, 2021, state effective version of the following provisions: 1200–03–09–.01(1)(a); 1200–03–09–.01(1)(d); 1200–03–09–.01(1)(j); 1200–03–09–.01(4)(b)24(XVII); 1200–03–09–.01(4)(b)29; 1200–03–09–.01(4)(b)47(i)(IV); 1200–03–09–.01(4)(j)3; 1200–03–09–.01(5)(b)1(x)(VII); the $PM_{2.5}$ annual and 24-hour averaging time as part of subparagraph 1200–03–09–.01(5)(b)(1)(xix); and 1200–03–09–.01(5)(b)2(iii)(II).

In the August 24, 2022, NPRM, EPA also proposed to exclude 1200–03–09–.01(1)(h); 1200–03–09–.01(4)(a)7(vi); 1200–03–09–.01(4)(l)2(iii); 1200–03–09–.01(5)(b)2(viii)(III); and 1200–03–09–.01(5)(b)3(i)(III) from the incorporation of the April 22, 2021, state effective version. *See* 87 FR 51946. Subsequent to the NPRM, EPA finalized approval of the version of these five provisions found in the April 22, 2021, state effective rule (*see* 87 FR 59322, September 30, 2022) and incorporated them by reference. EPA is therefore not finalizing the exclusion of these provisions from the incorporation by reference of Rule 1200–03–09–.01 in this action.

(c) * * *

TABLE 1—EPA APPROVED TENNESSEE REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |
| Section 1200–3–9–.01 ..... | Construction Permits. | 4/22/2021 | 10/24/2022, [Insert citation of publication]. | Except for 1200–03–09–.01(1)(a), (1)(d), (4)(b)24(i)(XVII), (4)(b)29, (4)(b)47(i)(IV), (4)(j)3, (5)(b)1(x) (VII), and (5)(b)2(iii)(II), which have a state effective date of 4/24/2013; 1200–3–9–.01(1)(j), which is not incorporated into the SIP; and the $PM_{2.5}$ SILs (found in 1200–3–9–.01(5)(b)1(xix)) and the SMC (found in 1200–3–9–.01(4)(d)6(i)(III)) provisions. |
| * | * | * | * | * * * |
| Section 1200–3–21–.01 ... | General Alternate Emission Standard. | 4/22/2021 | 10/24/2022, [Insert citation of publication].. | |
| * | * | * | * | * * * |

* * * * *

(e) * * *

EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS

| Name of non-regulatory SIP provision | Applicable geographic or nonattainment area | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |
| 110(a)(1) and (2) Infrastructure Requirements for the 2015 8-Hour Ozone NAAQS. | Tennessee ..... | 4/9/2021 | 10/24/2022, [Insert citation of publication]. | Addressing the PSD requirements of Section 110(a)(2)(C), (D)(i)(II) (Prong 3), and (J). |

[FR Doc. 2022–22357 Filed 10–21–22; 8:45 am]

BILLING CODE 6560–50–P

## NATIONAL SCIENCE FOUNDATION

### 45 CFR Part 613

**RIN 3145–AA66**

## Social Security Number Fraud Prevention Act of 2017 Implementation

**AGENCY:** National Science Foundation (NSF).

**ACTION:** Final rule; request for comments.

**SUMMARY:** NSF is adding a section to its Privacy Act regulations to implement restrictions on the use of Social Security numbers in documents mailed by NSF. These restrictions are required by the Social Security Number Fraud Prevention Act of 2017. The rule is intended to help reduce the potential risk of identity theft from fraudulent or other unauthorized acquisition of Social Security numbers from any NSF mailings.

**DATES:** The rule is effective October 24, 2022. Comments, if any, are requested by November 23, 2022.

**ADDRESSES:** Submit comments, if any, through the Federal e-rulemaking portal, *https://www.regulations.gov.* In the body of your comment, please indicate that it is in response to ''RIN 3145–AA66–Social Security Number Fraud Prevention Act of 2017 Implementation.'' If you are unable to submit your comment through the portal, please see the **FOR FURTHER INFORMATION CONTACT** section of this document to obtain alternate submission instructions. Comments may be made publicly available for routine viewing, inspection, and copying on *https://www.regulations.gov* and/or on the NSF website, *https://www.nsf.gov,* and are subject to disclosure under NSF's Freedom of Information Act regulations at 45 CFR part 612. For this reason, do not include in your comment information of a confidential nature, such as sensitive personal information or proprietary information, or any other information that you would not want publicly disclosed.

**FOR FURTHER INFORMATION CONTACT:** Alex Tang, Assistant General Counsel, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314, (703) 292–8547.

**SUPPLEMENTARY INFORMATION:** The Social Security Number Fraud Prevention Act of 2017, Public Law 115–59, 131 Stat. 1152 (Sept. 15, 2017), codified at 42 U.S.C. 405 note, restricts federal agencies from including Social Security numbers (SSNs) of individuals on documents sent by mail unless the head of the agency determines that including the SSN on the mailing is necessary. The Act requires agency heads to issue regulations, within five years of the Act, specifying the circumstances under which including an SSN on a document sent by mail is necessary. The Act requires that the regulations include instructions for the partial redaction of SSNs where feasible, and requires that SSNs not be visible on the outside of any package sent by mail.

To implement these requirements, NSF is amending its existing Privacy Act regulations (45 CFR part 613) to add a new § 613.7, and to make a

conforming amendment to § 613.1, which describes the scope of part 613, to accommodate the new rule. The rule prohibits including an individual's SSN on any document that NSF sends by mail unless it is necessary, as determined by the Director of NSF (or other agency official whom the Director may designate). If so, the rule requires that the SSN be truncated to display no more than the last four digits or, if such truncation is not feasible, the document may include additional SSN digits or the full SSN, as needed, but only under certain circumstances, *i.e.:* if required by law (*e.g.,* statute, court order, or other legal mandate); to identify a specific individual where no adequate substitute is available; or to fulfill some other compelling NSF business need. In all cases, the rule prohibits any SSN, truncated or not, from being visible on the outside of any NSF mailing.

Consistent with the language of the Act, and with the legislative intent and examples discussed in the House report (H.R. Rep. No. 115–150, pt. 1) accompanying the Act, the rule is limited to printed documents or correspondence mailed by NSF, including printed documents or correspondence mailed by a contractor acting on NSF's behalf. The rule does not apply to emails or other documents, correspondence, or communications transmitted by electronic means (*e.g.,* via web portals). The rule is also not intended to apply to mailings, if any, by NSF award recipients or other individuals or entities using financial or other support or assistance from NSF, as their award terms and conditions do not normally direct or authorize them to send mailings or otherwise take any actions on NSF's behalf.

**Administrative Procedure Act**

This rule of agency organization, procedure, or practice is exempt from the prior public notice and comment requirements of the Administrative Procedure Act. See 5 U.S.C. 553(b)(A). Accordingly, it is not being published in proposed form before being published as final and effective. There is also no need to delay the effective date of the rule by 30 days, as normally required for substantive rules. See 5 U.S.C. 553(d). Instead, there is good cause to make the rule effective immediately, as it is merely procedural and reflects a statutory requirement that is already in effect (*i.e.,* documents mailed by the agency may not include an SSN unless the agency head determines it is necessary). Id. Nonetheless, NSF will accept comments, if any, on the rule from interested parties, as provided in the **ADDRESSES** section of this document. NSF will consider such comments, if any, and may modify the rule on the basis of such comments, or as the agency may otherwise deem necessary or appropriate.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule is not a significant regulatory action subject to review by the Office of Management & Budget (OMB), Office of Information and Regulatory Affairs (OIRA) under Executive Order 12866, section 6(a).

**Executive Order 13132**

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule does not have any federalism implications, as described above.

**Regulatory Flexibility Act**

NSF hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification is that the rule governs only the circumstances under which NSF includes SSNs in documents mailed by the NSF. The rule does not apply to mailings by small entities, other than any contractors who may be engaged to send mailings on NSF's behalf. Even in those cases, the economic impact would fall on NSF, not on the contractor, to determine to what extent, if any, a mailing needs to include an SSN in whole or part, and to pay mailing costs. In any event, NSF does not expect the volume of such mailings, if any, to be significant. Accordingly, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement analyzing and estimating anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. See 2 U.S.C. 1532. The Act further requires that the agency publish a summary of such statement with the agency's proposed and final rules. No statement or summary is required, since the rule will not result in the above-stated expenditure by State, local, and tribal governments, or by the private sector.

Section 1 of Executive Order 12785 requires the agency to submit a description of the extent of its prior consultation with representatives of affected State, local, and tribal governments, together with the agency's position, to OMB to support the need for any regulation that is not required by statute, if the direct compliance costs incurred by such governments will not be funded by the Federal Government (*i.e.,* an unfunded mandate). The Executive order does not apply, since the rule is required by statute and, in any event, imposes no mandate or compliance obligations, unfunded or otherwise, on any State, local, or tribal government.

**Congressional Review Act**

A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a major rule under 5 U.S.C. 801.

**Paperwork Reduction Act**

This rule contains no information collection, recordkeeping, or disclosure provisions that would constitute information collection activities subject to the OMB clearance requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**List of Subjects in 45 CFR Part 613**

Personally identifiable information, Privacy, Social security.

For the reasons stated in the preamble, NSF amends part 613, title 45 of the Code of Federal Regulations, as set forth below:

## PART 613—PRIVACY ACT REGULATIONS

■ 1. Revise the authority citation for part 613 to read as follows:

**Authority:** 5 U.S.C. 552a; for § 613.7, 42 U.S.C. 405 note, Pub L. 115–59, 131 Stat. 1152.

■ 2. In § 613.1, add a sentence at the end to read as follows:

**§ 613.1 General Provisions.**

* * * This part also includes regulations required by the Social Security Fraud Prevention Act of 2017 to limit the use of Social Security numbers on documents mailed by the National Science Foundation (NSF or Foundation).

■ 3. Add § 613.7 to read as follows:

**§ 613.7 Social Security numbers on documents mailed by NSF.**

(a) A document that NSF sends by mail shall not include the Social Security number (SSN) of an individual, except where the NSF Director (or other agency official whom the NSF Director may designate) determines that it is necessary. If so, the SSN must be truncated to the extent feasible, as follows—

(1) The document shall include no more than the last four digits of the SSN; or

(2) If the document needs to include more digits, then only where they are:

(i) Required by law (including, but not limited to, a statute, court order, or other legal mandate);

(ii) Needed to identify a specific individual when no adequate substitute is available; or

(iii) Needed to fulfill some other compelling NSF business need.

(b) No portion of an SSN may be visible on the outside of any NSF mailing.

(c) For purposes of this section, ''mail'' and ''mailing'' means printed documents or correspondence, and does not include emails or any other documents, correspondence, or communications in electronic form.

(d) The requirements of this section shall apply to mail sent by NSF, including mailings by a contractor on NSF's behalf, on or after October 24, 2022.

Dated: October 17, 2022.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2022–23062 Filed 10–21–22; 8:45 am]

**BILLING CODE 7555–01–P**

# Proposed Rules

Federal Register
Vol. 87, No. 204
Monday, October 24, 2022

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

## FEDERAL RESERVE SYSTEM

### 12 CFR Chapter II

**[Docket No. R–1786]**

**RIN 7100–AG44**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Chapter III

**RIN 3064–AF86**

## Resolution-Related Resource Requirements for Large Banking Organizations

**AGENCY:** Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation.

**ACTION:** Advance notice of proposed rulemaking; request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC) (together, the agencies) are publishing for public comment this advance notice of proposed rulemaking (ANPR) to solicit public input regarding whether an extra layer of loss-absorbing capacity could improve optionality in resolving a large banking organization or its insured depository institution, and the costs and benefits of such a requirement. This may, among other things, address financial stability by limiting contagion risk through the reduction in the likelihood of uninsured depositors suffering loss, and keep various resolution options open for the FDIC to resolve a firm in a way that minimizes the long term risk to financial stability and preserves optionality. The agencies are seeking comment on all aspects of the ANPR from all interested parties and also request commenters to identify other issues that the Board and FDIC should consider.

**DATES:** Comments must be received on or before December 23, 2022.

**ADDRESSES:** Interested parties are encouraged to submit written comments jointly to both agencies. Commenters are encouraged to use the title ''ANPR Resolution-Related Resource Requirements for Large Banking Organizations'' to facilitate the organization and distribution of comments between the agencies. Commenters are also encouraged to identify the number of the specific question for comment to which they are responding. Comments should be directed to:

*Board:* You may submit comments, identified by Docket No. R–1786 and RIN 7100–AG44 by any of the following methods:

- *Agency Website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/generalinfo/foia//ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include docket and RIN numbers in the subject line of the message.
- *Fax:* 202–452–3819 or 202–452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

*Public Inspection:* All public comments are available from the Board's website at *https://www.federalreserve.gov/generalinfo/foia//ProposedRegs.cfm* as submitted. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C Street NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during Federal business weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

*FDIC*: You may submit comments, identified by RIN 3064–AF86, by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow instructions for submitting comments on the Agency website.
- *Email: comments@fdic.gov.* Include RIN 3064–AF86 on the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments RIN 3064–AF86, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery/Courier:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7:00 a.m. and 5:00 p.m.

*Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:**

*Board:* Molly Mahar, Senior Associate Director, (202) 973–7360; Catherine Tilford, Deputy Associate Director, (202) 452–5240; Lesley Chao, Lead Financial Institution Policy Analyst, Policy Development, (202) 974–7063, Division of Supervision and Regulation; Charles Gray, Deputy General Counsel, (202) 510–3484, Reena Sahni, Associate General Counsel, (202) 452–2026, Jay Schwarz, Assistant General Counsel, (202) 452–2970, Andrew Hartlage, Senior Counsel, (202) 452–6483, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of TTY–TRS, please

call 711 from any telephone, anywhere in the United States.

*FDIC:* Andrew J. Felton, Deputy Director, (202) 898–3691; Ryan P. Tetrick, Deputy Director, (202) 898–7028; Jenny G. Traille, Associate Director, (202) 898–3608; Julia E. Paris, Senior Cross-Border Specialist, (202) 898–3821; Division of Complex Institution Supervision and Resolution; R. Penfield Starke, Assistant General Counsel, (202) 898–8501, *rstarke@fdic.gov;* David N. Wall, Assistant General Counsel, (202) 898–6575, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

## Background

Over the past decade, the Board of Governors of the Federal Reserve System (Board) and Federal Deposit Insurance Corporation (FDIC) (together, the agencies) have promulgated rules and guidance, both jointly and individually, to support the orderly resolution of large banking organizations.[1] These rules and related guidance are tiered based on the complexity and risks of different banking organizations: the most stringent rules apply only to global systemically important bank holding companies (GSIBs) and include requirements to submit a resolution plan every two years, follow a ''clean-holding company'' requirement that prohibits top-tier holding companies from entering certain financial arrangements (such as short-term borrowings or derivatives contracts) that might impede orderly resolution, adopt resolution-related stay provisions in qualified financial contracts (for example, establishing a set period of time during which a party to a qualified financial contract is restricted from terminating, liquidating, or netting such contract in the event of resolution), and maintain minimum outstanding amounts of total loss-absorbing capacity (TLAC) and long-term debt. The Board has issued supervisory guidance [2] on recovery planning that applies to GSIBs, and the FDIC has issued a rule to require certain covered insured depository institutions (CIDIs), including IDI subsidiaries of GSIBs, to periodically submit resolution plans to ensure that the FDIC can effectively carry out its responsibilities for the resolution of a CIDI in the event that it is appointed receiver under the Federal Deposit Insurance Act (FDI Act).[3]

For large banking organizations that are not U.S. GSIBs,[4] resolution planning requirements under Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act apply at a reduced frequency. Category II and Category III [5] large banking organizations file resolution plans on a triennial cycle,[6] alternating between submission of full and targeted resolution plans. Further, large banking organizations that are not GSIBs generally are not subject to TLAC or long-term debt requirements, clean holding company requirements, rules related to qualified financial contract stay provisions in resolution, or Board guidance on recovery planning.[7]

Since resolution-related rules and guidance were adopted, the U.S. banking system has continued to evolve. For example, in recent years, merger activity and organic growth have increased the size of large banking organizations that are not GSIBs, particularly those in Category III. As of December 2019, the domestic Category III firms had an average of approximately $413 billion in total consolidated assets, while as of December 2021, the same group of large banking organizations had grown to an average size of approximately $554 billion in total consolidated assets.[8] While most of these firms' overall business remains concentrated in traditional banking activities, and their proportion of total banking sector assets has remained relatively constant, their larger size heightens the potential impact of a possible costly resolution.

For the vast majority of bank resolutions, the FDIC pursues a strategy of selling the failed IDI to another depository institution, as this has been the course of action which was least-costly to the Deposit Insurance Fund (DIF) and minimized disruption to local communities and to the financial system. During the global financial crisis, there were limited and undesirable options available to the FDIC for resolving the largest failed IDIs including disruptive and costly liquidation strategies or the sale of large banks to even larger financial institutions. The challenges associated with the acquisition of a large, failed IDI continue to be significant, both operationally and financially; as a result, the universe of potential acquirers is limited. The availability of sufficient loss-absorbing resources at the depository institution would preserve franchise value and support the stabilization of the firm to allow for a range of options for the restructuring and disposition of the reduced firm in whole or in parts.

In addition, some large banking organizations have increased their reliance on large uninsured deposits to fund their operations over the past decade. These deposits may be less stable relative to insured deposits under conditions of firm-specific stress and resolution. Uninsured deposits comprise a significant portion of Category II and III banking organizations' funding base, standing at roughly 40% of total deposits as of the first quarter of 2022 as a group.[9] While GSIBs also have high levels of uninsured deposits, the regulatory resolution framework that has been built

[1] *E.g.,* Regulation QQ, 12 CFR part 243 (joint resolution planning rule); Regulation YY, 12 CFR part 252 (Board's enhanced prudential standards, including TLAC).

[2] SR Letter 14–1, Heightened Supervisory Expectations for Recovery and Resolution Preparedness for Certain Large Bank Holding Companies—Supplemental Guidance on Consolidated Supervision Framework for Large Financial Institutions (SR Letter 12–17/CA Letter 12–14) (January 24, 2014), *https://www.federalreserve.gov/supervisionreg/srletters/sr1401.htm.*

[3] 12 CFR 360.10.

[4] The term large banking organization refers to a domestic bank holding company, or domestic savings and loan holding company, that has $100 billion or more in total consolidated assets but is not a GSIB under the Board's capital rule, 12 CFR part 217, or a savings and loan holding company that would be identified as a GSIB under the Board's capital rule if it were a bank holding company. The total population of large banking organizations corresponds to Category II through IV firms under the Board's tiering framework for enhanced prudential standards. In this ANPR, the agencies are focused on domestic large banking organizations in Categories II and III, which generally exceed a threshold of $250 billion in total consolidated assets.

[5] Category II banking organizations have $700 billion or more in average total consolidated assets or $75 billion or more in cross-jurisdictional activity. Category III banking organizations have between $250 billion and $700 billion in average total consolidated assets or $75 billion or more in off-balance sheet exposures, nonbank assets, or short-term wholesale funding.

[6] In November 2019, the resolution plan rule was amended to modify plan submission requirements for firms that do not pose the same systemic risk as the largest institutions. The revised final rule established three types of resolution plans: the full plan, targeted plan, and reduced plan. Currently, U.S. GSIBs and Category II and III firms alternate between filing full and targeted plans. U.S. GSIBs alternate on a 2-year cycle while Category II and III firms alternate on a 3-year cycle. Category II and III firms last submitted targeted plans on December 17, 2021; under the rule they will next be required to submit full resolution plans on or before July 1, 2024. On September 30, 2022, the agencies issued a press release announcing their intention to issue forthcoming resolution planning guidance for Category II and III firms which have not already received guidance.

[7] U.S. intermediate holding companies of global systemically important foreign banking organizations, however, are subject to internal TLAC and long-term debt requirements. *See* 12 CFR part 252, subpart P.

[8] See FR Y–9C Schedule HC—Consolidated Balance Sheet, for Category II and III bank holding companies.

[9] See Call Report Schedule RC–O—Other Data for Deposit Insurance and FICO Assessments, for Category II and III banking organizations.

up around them—including TLAC and long-term debt requirements—help to mitigate related risks.

Finally, some large banking organizations have heightened cross-jurisdictional activity or significant non-bank operations that could present challenges to orderly resolution due to the complexities of coordinating among resolution authorities. While size alone can limit options and increase the potential negative impacts in the resolution of an IDI, other complexities can create risks from and impediments to resolution, including significant international operations requiring cross-border cooperation, and material operations, assets, liabilities and services outside the bank chain. These complicating features of bank resolution can raise challenges to the feasibility of creating and stabilizing a viable bridge depository institution or other resolution strategies for a failing insured depository institution due to multiple competing insolvencies, discontinuity of operations, and the destruction of value, and result in a disorderly and costly resolution.

As the profile of large banking organizations continues to evolve, with larger balance sheets and increased volume of uninsured deposits, and potentially more complex organizations, the agencies are considering whether additional measures are warranted to address financial stability impacts that might be associated with the failure of such firms. This includes whether an extra layer of loss-absorbing capacity could increase the FDIC's optionality in resolving the insured depository institution, and the potential costs of such a requirement. Additional loss-absorbing resources could limit contagion risk by reducing the likelihood of uninsured depositors suffering loss. These additional resources could also be useful in keeping various resolution options open for the FDIC to resolve a subsidiary depository institution in a way that minimizes the long term risk to financial stability; availability of such resources could help preserve optionality for resolving large IDIs across a range of scenarios in a manner that is least costly to the DIF without resorting to the sale of the firm being resolved to another large banking organization or GSIB. However, a long-term debt requirement could impact the cost and availability of credit.

**GSIB vs. Large Banking Organization Resolution**

GSIB and other large banking organization resolution strategies tend to follow one of two generally recognized approaches to resolution.[10] As described in the public sections of their resolution plans, the U.S. GSIBs have all adopted a single-point-of-entry (SPOE) resolution strategy, in which only the top-tier holding company would enter a resolution proceeding (bankruptcy) and in which losses would be passed up from subsidiaries to the parent company shareholders and long-term debt holders to recapitalize the subsidiaries. To facilitate this resolution strategy, the total loss-absorbing capacity (TLAC) rule requires a GSIB to maintain a minimum level of eligible long-term debt at the holding company level. Proceeds from issuance of long-term debt may be down-streamed to subsidiaries, such as in the form of internal debt, or maintained at the holding company to allocate as resource needs arise at particular subsidiaries. Prior to resolution, the top-tier holding company would down-stream all remaining available resources. Upon exhaustion of the remaining holding company resources it would enter resolution while the subsidiaries continue operating.

By allowing subsidiaries to continue operating after the resolution of the top-tier holding company, the SPOE resolution process limits the risk of multiple competing resolution processes across multiple resolution authorities and jurisdictions that could greatly complicate the resolution of a failing firm and impede the continuity of critical operations. An SPOE resolution also avoids losses to subsidiaries' third-party creditors and may reduce the need for asset fire sales that could pose broader risks to financial stability. The TLAC, long-term debt, and clean holding company requirements that the Board has applied to the U.S. GSIBs were generally designed to support an SPOE resolution strategy. These GSIB requirements enable loss-absorbing resources issued at the holding company level to be down-streamed to subsidiaries in a pre-positioned fashion, as well as to be made available on a flexible incremental basis where called for under stress.

Unlike the GSIBs, most large banking organizations do not have material broker dealers or international operations, and their assets and liabilities most often are overwhelmingly concentrated in the depository institution entity. Some have significant international footprints or significant activities, assets, and services outside the bank chain, but have less complex operations and fewer systemically important critical operations. As described in the public sections of the resolution plans filed by Category II and III large banking organizations, a multiple-point-of-entry (MPOE) resolution strategy is generally contemplated by these firms, in which the parent holding company would enter bankruptcy and the insured depository institution subsidiary would undergo FDIC-led resolution under the Federal Deposit Insurance Act (FDI Act). In conducting the insured depository institution-level resolution, the FDIC can, among other things, provide liquidity when necessary and take advantage of the statutory stays on derivatives and other qualified financial contracts, as well as its own historical experience in administering insured depository institution-level resolutions.

Drawing on that experience, the FDIC has several options for carrying out the resolution of an insured depository institution, including selling assets and transferring deposits to healthy acquirers, transferring assets and deposits to a bridge bank (which, among other things, could either sell off assets over time or conduct a sale or an IPO once the restructured business has stabilized), or executing an insured deposit payout. In deciding which option to pursue, the FDIC must show how it would meet the least-cost test set forth in the FDI Act in furtherance of its key objective of protecting insured depositors. While the FDI Act does contain a systemic risk exception to the least-cost test, the FDIC had never invoked the exception prior to the global financial crisis. While an MPOE resolution strategy may be appropriate for a large banking organization, without sufficient loss absorbing resources at the insured depository institution, the options available to the FDIC for resolving the subsidiary insured depository institution under the FDI Act may be limited. The size and funding profile of large banking organizations merits consideration of whether a larger set of options, supported by additional resources at the insured depository institution is needed to contain the impact of their failure on the larger financial system immediately and over time, and the potential costs of such an approach. Particularly for the largest and most complex large banking organizations, the availability of ex ante loss-absorbing capacity could be helpful in a range of resolution scenarios, including a bail-in recapitalization or a bridge bank, that would afford the FDIC the ability to stabilize operations, preserve franchise value, and provide more time to consider the impact on

[10] *See* 82 FR 8266, 8270 n.29 (January 24, 2017).

future financial stability of marketing a failed institution in whole or in parts.

**Public Input**

The agencies periodically review their existing regulations to ensure they appropriately address risks to safe and sound banking and financial stability and are issuing this ANPR to explore whether and how resolution-related standards applicable to large banking organizations could be strengthened to enable a more efficient resolution of a large banking organization, while mitigating effects to the financial system. The agencies are considering tiered requirements that distinguish between the set of standards in this area that are applied to GSIBs and the framework to be applied to other large banking organizations, given differences between their resolution strategies as well as large banking organizations' smaller size, less complex operations, and generally more limited operations outside of their U.S. insured depository institution. The agencies are interested in public comment on how appropriately-adapted elements of the GSIB resolution-related standards—including a long-term debt requirement potentially at the insured depository institution and/or the holding company level, a clean holding company requirement, or recovery planning guidance—could be applied to large banking organizations to enhance financial stability by providing for a wider range of resolution options and address related risks to safe and sound banking, the potential costs of such changes, and how these policies might be structured to achieve those goals most effectively and efficiently.

**Long-Term Debt**

The agencies are exploring whether requiring additional ex ante financial resources, such as qualifying forms of long-term debt, including at the insured depository institution, would improve the prospects for successful resolution of large banking organizations, the potential costs and the appropriate scope of any such requirement. The Board's current long-term debt requirements were designed to ensure that U.S. GSIBs maintain greater loss-absorbing capacity on a ''gone-concern'' basis in resolution and have resources available to recapitalize subsidiaries and maintain continuous operations even as the parent enters bankruptcy (as is the case in an SPOE resolution). Although some portion of going-concern regulatory capital might in certain circumstances remain available to absorb losses after a firm has entered resolution, a long-term debt requirement would address the fact that the firm's regulatory capital, and especially its equity capital, is highly likely to have been significantly or completely depleted in the lead-up to a resolution or bankruptcy.

While the current long-term debt requirement applicable to U.S. GSIBs was designed with the SPOE resolution strategies followed by the U.S. GSIBs in mind, it is possible that for other large banking organizations an appropriately adapted form of long-term debt requirement is needed to preserve options for an FDIC-led resolution of an insured depository institution as part of an MPOE resolution process. For example, if the proceeds of long-term debt issued by a parent holding company are down-streamed to its principal insured depository institution subsidiary in exchange for internal long-term debt of the insured depository institution, such internal debt could be available to absorb losses in connection with an FDIC resolution of the insured depository institution. Alternatively, or in conjunction with, such internal debt funded by parent-level issuance, external long-term debt issued by the insured depository institution could likewise function as a credible form of loss absorbency in an FDIC-led resolution and might therefore appropriately count toward an overall long-term debt requirement. In concept, issuance of long-term debt at the parent holding company level might play an additional role of supporting an SPOE strategy focused on holding company-level resolution, potentially creating an additional resolution option.

The availability of this loss-absorbing resource at the insured depository institution would protect deposits and thereby increase the likelihood that a transfer to a bridge insured depository institution to preserve franchise value would be less costly to the DIF than a payout of insured deposits. Use of a bridge insured depository institution would enhance the FDIC's ability to pursue options that could involve breaking the insured depository institution up for sale to multiple acquirers, and/or spinning off some remaining streamlined operations as a restructured entity with ongoing viability, depending on which strategy is most desirable. Generally speaking, the greater the extent of feasible options available to the FDIC as it undertakes resolution of an insured depository institution, the greater will be the chance that resolution can be conducted in an orderly manner without the need of extraordinary support and increased risk to the DIF based upon a systemic risk exception to the least-cost test.

Thus, to limit the impact of a firm's failure on the DIF and decrease potential risks to financial stability, certain large banking organizations could be required to maintain long-term debt at the insured depository institution that meets certain specified characteristics [11] in order to (i) absorb losses at a large banking organization as it undergoes resolution; (ii) support the viability of restructuring options such as the sale of various subsidiaries, branch networks, or business lines; or (iii) support a public spin-off of the restructured entity upon its emergence from resolution.

For these reasons, the agencies are considering the advantages and disadvantages of requiring large banking organizations that meet some specified categorization threshold to maintain long-term debt capable of absorbing losses in resolution.

*Question 1: The agencies invite comment on whether and how a requirement to maintain a minimum amount of long-term debt could enhance a large banking organization's resolvability. How might long-term debt be beneficial for improving optionality when conducting the resolution of a U.S. large banking organization or its insured depository institution? What would be the optimal structure of the long-term debt and what other requirements would be necessary to ensure that it remains available to utilize in resolution? Which entity in a large banking organization's corporate structure would be the ideal issuer of long-term debt externally to the market? What would be the costs of a long-term debt requirement for large banking organizations or their customers? What alternative approaches are available to address possible concerns about the resolvability of large banking organizations or their insured depository institutions?*

*Question 2: The agencies invite comment on alternative approaches for determining the appropriate scope of application of a potential long-term debt requirement to the population of large banking organizations. In particular, what criteria would be relevant to determine whether a large banking organization should be subject to the requirement? Should all Category II and,*

[11] Such characteristics would necessarily include an appropriate form of subordination. As described in the adopting release for the TLAC rule, debt issued by a parent holding company is considered structurally subordinated to debt of the parent's insured depository institution subsidiary. Debt issued by an insured depository institution subsidiary, either externally or internally, would generally need to benefit from contractual or statutory subordination features in order to reliably serve as loss-absorbing capacity in resolution.

*Category III firms (including SLHCs, which are not subject to resolution planning requirements) be subject to a long-term debt requirement? Why or why not? What additional factors—for example, the presence of significant non-bank operations, critical operations, critical services outside the bank chain, cross-border operations, or extent of reliance on uninsured deposits—should the agencies consider when determining the scope of application of any long-term debt requirement to large banking organizations? Given the practical and market limitations for selling large insured depository institutions, especially during a crisis, what is the appropriate scope of application for a loss absorbing debt requirement to expand the range of strategies available to the FDIC? How should IDIs that are not part of a group under a BHC be considered?*

*Question 3: The agencies invite comment on how any new requirements should be applied to the U.S. subsidiaries of foreign banking organizations. Top-tier U.S. intermediate holding company (IHC)*[12] *subsidiaries of foreign GSIBs are currently subject to long-term debt requirements. To what extent should those top-tier U.S. holding companies of foreign firms or their insured depository institutions that have a similar risk profile to the domestic large banking organizations that might be subject to any long-term debt requirement considered in this ANPR, be subject to any new requirements in line with those applied to domestic large banking organizations?*

*Question 4: The agencies invite comment on the appropriateness of recognizing debt issued by various legal entities within a holding company structure in determining compliance with any long-term debt requirement imposed on the top tier holding company. Specifically, to what extent should the Board consider whether a large banking organization's resolution strategy is an SPOE or MPOE strategy, whether the long-term debt is issued by the parent holding company or the insured depository institution, or other factors in determining the requirement?*

The current long-term debt calibration for U.S. GSIBs requires that firms maintain long-term debt at least equal to the greater of (i) 6% of risk-weighted assets, plus a firm-specific surcharge applicable to each GSIB or (ii) 4.5% of total leverage exposure. This calibration is intended to ensure U.S. GSIBs maintain enough loss-absorbing capacity to fully recapitalize material subsidiaries quickly for continuous operation. The current long-term debt requirement for intermediate holding companies of foreign GSIBs is calibrated at the greater of 6% of risk-weighted assets or 2.5% of total leverage exposure.

*Question 5: The agencies invite comment on the appropriate calibration of a long-term debt requirement for large banking organizations. Should the agencies establish the same calibration as is currently in effect for intermediate holding companies of foreign GSIBs or establish a different calibration? What are the advantages and disadvantages of applying a calibration designed to require sufficient resources to recapitalize a large banking organization's subsidiaries in the event equity capital is fully depleted, in order to continue operations either under an SPOE or MPOE resolution strategy? How should the agencies weigh the burden of additional requirements against the potential benefit to financial stability? What other factors should the agencies consider to calibrate a long-term debt requirement for large banking organizations or insured depository institutions that would provide sufficient optionality to address material distress or failure in a manner that limits risk to financial stability over time? How should the agencies consider competitive equality in calibrating any long-term debt requirements for large banking organizations relative to existing requirements for GSIBs and top tier IHC holding companies of foreign banking organizations? What data should be considered to support calibration determinations?*

*Question 6: The agencies invite comment on the potential effect of a long-term debt requirement on large banking organizations in different tiering categories (for example, Category II and Category III) and on the capacity of these firms to issue such debt into the market throughout an economic cycle. What are the potential effects of a long-term debt requirement on these firms' funding model and funding costs, including any associated effect on market discipline and overall firm resiliency? What, if any, are the potential effects of a long-term debt requirement on the cost and availability of credit?*

Under the TLAC rule applicable to GSIBs, only debt instruments that meet certain requirements[13] may be included in a GSIB's outstanding external TLAC amount. The general purpose of these requirements, certain of which are discussed below, is to ensure the ability of eligible long-term debt instruments to readily absorb losses in an SPOE resolution. The agencies are evaluating whether certain components of the eligibility requirements that must be satisfied for long-term debt to qualify as ''eligible long-term debt'' under the existing TLAC rule that applies to U.S. GSIBs would be relevant to improve the resolvability of large banking organizations. These components and their applications to GSIBs are listed below:

*1. Issuance by the Top-Tier Holding Company*

To ensure that a debt instrument can be used to absorb losses incurred anywhere in the banking organization, the GSIB TLAC rule specifies that eligible long-term debt must be issued by the top-tier holding company of a banking organization.[14] Debt externally issued by a subsidiary generally is only available to absorb losses in a resolution of that particular subsidiary.

*2. Clean Holding Company Requirements*

In addition, the top-tier holding companies of the GSIBs are also subject to specified ''clean holding company'' requirements. These requirements include prohibitions on issuance of short-term debt to external investors and on entry into derivatives and certain other types of financial contracts and arrangements that would create obstacles to an orderly resolution.

The agencies are interested in whether these holding company requirements can or should be adapted to support the resolution of large banking organizations and how to create a layer of gone-concern loss-absorbing capacity that can most effectively be used to absorb losses in various scenarios.

In addition, the agencies are interested in whether any of the eligibility requirements to be treated as ''eligible long-term debt'' under the existing TLAC rule can or should be adapted to support the resolution of large banking organizations.

*Question 7: The Board invites comment on the pros and cons of permitting eligible long-term debt issued externally by a large banking organization's principal insured depository institution subsidiary to count toward a requirement at the top-*

[12] 12 CFR 252.153(a).

[13] *See* 12 CFR 252.61—Eligible debt security.

[14] In their resolution planning, U.S. GSIBs and U.S. intermediate holding companies of foreign GSIBs determine what portion of those resources are pre-positioned at various material entities, including the insured depository institution, based upon their individual methodologies.

*tier holding company. In what situations might requiring issuance at the holding company level be most beneficial? What range of approaches—other than requiring issuance by the top-tier holding company—may be available to ensure that eligible long-term debt will be available to absorb losses incurred at appropriate legal entities within a given large banking organization's corporate group?*

*Question 8: The agencies invite comment on whether requirements on governance mechanics should be put in place to ensure that entry into resolution will occur at a time when the eligible long-term debt will be available at the insured depository institution and/or the holding company level to absorb losses? Should such requirements include whether the loss absorbing capacity can absorb losses incurred at appropriate legal entities within a given large banking organization's corporate group? To what extent should such mechanics be aligned with internal recovery planning frameworks to coordinate resolution preparation actions with recovery actions?*

*Question 9: The agencies invite comment on whether subjecting the operations of the top-tier holding company of large banking organizations to ''clean holding company'' limitations similar to the ones imposed on GSIBs would further enhance the resolvability of a large banking organization. Why or why not?*

*Question 10: Among the other requirements that must be satisfied under the existing GSIB TLAC rule in order for debt issued by the parent company to qualify as eligible long-term debt (for example, relating to ''plain vanilla'' characteristics, minimum remaining maturity, governing law), which requirements would remain essential in order for long-term debt instruments issued by large banking organizations to properly function as a loss-absorbing resource in resolution? What modifications of such requirements, if any, should the agencies consider in the large banking organization context with respect to loss absorbing debt at insured depository institutions and/or holding companies?*

**Disclosure**

Under the TLAC rule applicable to GSIBs, firms are required to provide the LTD debtholders a description of the financial consequences that could occur if the GSIB entered into a resolution proceeding as well as a summary table of the location of the disclosures (*e.g.,* on the GSIB's website, in public financial reports or public regulatory reports). Where it is necessary to bail-in the LTD, the value of the debtholder's note may be significantly or completely depleted.

*Question 11: The agencies invite comment on the appropriate form and content of the disclosure large banking organizations should be required to provide to their long-term debt investors with respect to the potential treatment of such debt in resolution. If LTD requirements are imposed on large banking organizations, what, if any, adaptations should be made relative to the disclosure requirements that apply to GSIBs?*

**Separability**

The agencies are also evaluating whether they should, for some or all large banking organizations, establish separability requirements in the recovery or resolution contexts.

When a large banking organization encounters internal or external stresses or ultimately enters resolution the identification of executable ''separability options,'' such as the sale, transfer, or disposal of significant assets, portfolios, legal entities or business lines on a discrete product line or regional basis could provide alternatives to a wholesale acquisition of a large banking organization's operations by a larger institution such as an existing GSIB.

*Question 12: Should the agencies impose any separability requirements for recovery or resolution on all large banking organizations, including GSIBs? To what extent would imposing new separability requirements add net benefits against the backdrop of other existing requirements? In what fashion can or should these requirements be harmonized to promote their effectiveness?*

By order of the Board of Governors of the Federal Reserve System.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on October 18, 2022.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2022–23003 Filed 10–21–22; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–1302; Project Identifier MCAI–2022–00062–E]**

**RIN 2120–AA64**

## Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Turboprop 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 GE Aviation Czech s.r.o. (GEAC) H75–100, H75–200, H80, H80–100, H80–200, H85–100, and H85–200 model turboprop engines. This proposed AD was prompted by the manufacturer revising the airworthiness limitations section (ALS) of the existing engine maintenance manual (EMM) to introduce updated coefficients for the calculation of the cyclic life and safe life for the main shaft. This proposed AD would require revising the ALS of the existing EMM and the operator's existing approved maintenance or inspection program, as applicable, to incorporate the updated coefficients and recalculate the cycles accumulated on critical parts. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this NPRM by December 8, 2022.

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

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2022–1302; 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.

**FOR FURTHER INFORMATION CONTACT:** Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@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–2022–1302; Project Identifier MCAI–2022–00062–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,* 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 Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. 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 European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2022–0008, dated January 19, 2022 (referred to after this as ''the MCAI''), to address an unsafe condition on all GEAC H75–100, H75–200, H80, H80–100, H80–200, H85–100, and H85–200 engines, all build configurations, all serial numbers. The MCAI states that the airworthiness limitations for H series engine models, which are approved by EASA, are currently defined and published in the ALS of the GEAC EMM. These instructions have been identified as mandatory for continued airworthiness. Failure to accomplish these instructions could result in an unsafe condition. Recently, GEAC published the ALS, as defined in the MCAI, introducing updated coefficients for the calculation of the cyclic life and safe life for the main shaft. For the reason described above, the MCAI specifies accomplishment of the actions specified in the ALS.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2022–1302.

**Related Service Information**

The FAA reviewed the ALS of the GEAC EMM, Part No: 0983402 Rev. 22, dated December 18, 2020. This service information provides updated coefficients for the calculation of the cyclic life and safe life for the main shaft.

**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 and service information described 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 these same type designs.

**Proposed AD Requirements in This NPRM**

This proposed AD would require revising the ALS of the existing EMM and the operator's existing approved maintenance or inspection program, as applicable, to incorporate the updated coefficients and recalculate the cycles accumulated on critical parts. An owner/operator (pilot) holding at least a private pilot certificate may revise the ALS of the existing EMM, and the owner/operator must enter compliance with the applicable paragraphs of the AD into the aircraft records in showing compliance with this AD in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439. This is an exception to the FAA's standard maintenance regulations.

**Differences Between This Proposed AD and the MCAI**

The MCAI specifies replacing each component before exceeding the applicable life limit and accomplishing all the applicable maintenance tasks within the thresholds and intervals, as defined in the ALS, from its effective date. The MCAI specifies that in case of finding discrepancies during accomplishment of any task required by paragraph (1) of the MCAI, before the next flight, accomplish the applicable corrective actions in accordance with existing GEAC instructions. The MCAI also specifies to contact GEAC for approved instructions if a detected discrepancy cannot be corrected using existing GEAC instructions. This proposed AD would not require performing corrective actions in accordance with existing GEAC instructions or contacting GEAC for approved instructions. The MCAI specifies revising the aircraft maintenance program within 12 months from its effective date. This proposed AD would require revising the ALS of the existing EMM and the operator's existing approved maintenance or inspection program, as applicable, to incorporate the updated coefficients and recalculate the cycles accumulated on critical parts within 90 days after the effective date of the proposed AD.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 33 engines installed on aircraft 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 |
|---|---|---|---|---|
| Revise the ALS of the EMM and the operator's existing approved maintenance or inspection program. | 1 work-hour × $85 per hour = $85 .. | $0 | $85 | $2,805 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**GE Aviation Czech s.r.o (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.):** Docket No. FAA–2022–1302; Project Identifier MCAI–2022–00062–E.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by December 8, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) H75–100, H75–200, H80, H80–100, H80–200, H85–100, and H85–200 model turboprop 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 airworthiness limitations section (ALS) of the existing engine maintenance manual (EMM) to introduce updated coefficients for the calculation of the cyclic life and safe life for the main shaft. The FAA is issuing this AD to prevent failure of the engine. The unsafe condition, if not addressed, could result in uncontained release of a critical part, damage to the engine, and damage to the airplane.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 90 days after the effective date of this AD, revise the ALS of the existing EMM to incorporate the information in Table 1 to paragraph (g)(1) of this AD and recalculate the cycles accumulated on critical parts.

TABLE 1 TO PARAGRAPH (g)(1)—EQUIVALENT CYCLIC LIFE (N) AND SAFE LIFE OF CRITICAL PARTS

| Description | Drawing No. | Abbreviated flight cycle coefficient | Flight mission coefficient | Equivalent cyclic life limit |
|---|---|---|---|---|
| | | $A_V$ $A_P$ | L | N |
| Main Shaft | M601–1017.75 | 0.47 | 1.05 | 16,000 |

(2) After performing the action required by paragraph (g)(1) of this AD, except as provided in paragraph (h) of this AD, no alternative life limits may be approved.

(3) The action required by paragraph (g)(1) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

**(h) Alternative Methods of Compliance (AMOCs)**

The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in § 39.19. In accordance with § 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 certification office, send it to the attention of the person identified in paragraph (i)(2) of this AD and email to: *ANE-AD-AMOC@faa.gov.* 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.

**(i) Additional Information**

(1) Refer to European Union Aviation Safety Agency (EASA) AD 2022–0008, dated January 19, 2022, for related information. This EASA AD may be found in the AD docket at *regulations.gov* under Docket No. FAA–2022–1302.

(2) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

**(j) Material Incorporated by Reference**

None.

Issued on October 7, 2022.

**Christina Underwood,**

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

[FR Doc. 2022–22399 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 201 and 314

**[Docket No. FDA–2021–N–0862]**

**RIN 0910–AH62**

## Nonprescription Drug Product With an Additional Condition for Nonprescription Use; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is extending the comment period for the proposed rule that appeared in the **Federal Register** of June 28, 2022. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

**DATES:** FDA is extending the comment period on the proposed rule published on June 28, 2022 (87 FR 38313). Either electronic or written comments must be submitted by November 25, 2022.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 25, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

*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–2021–N–0862 for ''Nonprescription Drug Product With an Additional Condition for Nonprescription Use.'' Received comments, those filed in a timely manner (see **ADDRESSES**), 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://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.

**FOR FURTHER INFORMATION CONTACT:** Chris Wheeler, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3330, Silver Spring, MD 20993–0002, 301–796–0151, *Chris.Wheeler@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 28, 2022, FDA published a proposed rule entitled ''Nonprescription Drug Product With an Additional Condition for Nonprescription Use.'' The 120-day comment period for the proposed rule is scheduled to close on October 26, 2022. The proposed rule, if finalized, would establish requirements for a nonprescription drug product that has an additional condition for nonprescription use that an applicant must implement to ensure appropriate self-selection or appropriate actual use, or both, by consumers without the supervision of a healthcare practitioner.

The Agency has received separate requests for a 30-day and 90-day

extension of the comment period for the proposed rule. Each request conveyed concern that the current 120-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the proposed rule.

FDA has considered the requests and is extending the comment period for the proposed rule until November 25, 2022. The Agency believes that this extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23033 Filed 10–20–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 147

**[Docket Number USCG–2022–0313]**

**RIN 1625–AA00**

## Safety Zone; Vito Floating Production System, Outer Continental Shelf Facility, Mississippi Canyon Block 939, Gulf of Mexico

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a safety zone around the Vito Floating Production System (FPS), located in Mississippi Canyon Block 939 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. Establishing a safety zone around the facility would significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2022–0313 using the Federal eRulemaking Portal *at https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR David Newcomb, District Eight OCS, U.S. Coast Guard; telephone 504–671–2106, *David.T.Newcomb@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FPS Floating Production System
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

### II. Background, Purpose, and Legal Basis

Under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life and property on the facilities. The protections included in a safety zone established under 33 CFR part 147 are promoting safety of life and property on the facilities as well as their appurtenances and attending vessels and also for the adjacent waters located in and around each facility. Therefore, a safety zone under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property and the environment. Shell Exploration and Production Company requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. The Coast Guard determined that establishing a safety zone around this facility would significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

### III. Discussion of Proposed Rule

The safety zone proposed by this rulemaking is on the OCS in the deepwater area of the Gulf of Mexico in Mississippi Canyon Block 939 at the center point of N 28°01′32.325″, W 89°12′33.254″. The safety zone would be permanent. For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. The transit of other vessels into and through the safety zone area would be prohibited. Requests for entry will be considered and reviewed on a case-by-case basis. These proposed regulations are consistent with the existing safety zones on other OCS platforms in the Gulf of Mexico. Persons or vessels that require authorization to enter the safety zone must request it from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or a designated representative.

### IV. Regulatory Analyses

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

#### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zone established will extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge, but may not interfere with the use of recognized sea lanes essential to navigation. Vessel traffic would be able to safely transit

around the proposed safety zone, which would impact a small designated area in the Gulf of Mexico, without significant impediment to their voyage. This safety zone would reduce the risk of allision with the platform and help protect the environment from potential oil spills, in accordance with Coast Guard maritime safety missions.

*B. Impact on Small Entities*

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

This rule may affect owners or operators of vessels intending to transit or anchor in Mississippi Canyon 939, some of which might be small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic would be able to pass safely around the safety zone using an alternate route. Use of an alternate route may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Vessels would be able to request deviation from this rule to transit through the safety zone. Such requests would be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing a safety zone around an OCS facilities to be minimal, with no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

Further, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or for Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

## V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0476 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed

rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

**List of Subjects in 33 CFR Part 147**

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

## PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.879 to read as follows:

**§ 147.879 Safety Zone; Vito Floating Production System, Outer Continental Shelf Facility, Mississippi Canyon Block 939, Gulf of Mexico.**

(a) *Description.* The following is a permantent safety zone: the area within 500 meters of the Vito Floating Production System in the deepwater area of the Gulf of Mexico at Mississippi Canyon Block 939 is a safety zone. The Vito FPS is located at:

Latitude N 28°01′32.325″
Longitude 89°12′33.254″

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

(1) An attending vessel as defined in 147.20;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for Permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Dated: October 18, 2022.

**Richard Timme,**

*RADM, U.S. Coast Guard, Commander, Coast Guard District Eight.*

[FR Doc. 2022–23065 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 147

**[Docket Number USCG–2021–0476]**

**RIN 1625–AA00**

## Safety Zone; Heidelberg Spar Outer Continental Shelf Facility, Green Canyon Block 860, Gulf of Mexico

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a safety zone around the Heidelberg Spar, located in Green Canyon Block 860 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0476 using the Federal eRulemaking Portal *at https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR David Newcomb, District Eight OCS, U.S. Coast Guard; telephone 504–671–2106, *David.T.Newcomb@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

### II. Background, Purpose, and Legal Basis

Under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life and property on the facilities. The protections included in a safety zone established under 33 CFR part 147 are promoting safety of life and property on the facilities as well as their appurtenances and attending vessels and also for the adjacent waters located in and around each facility. Therefore, a safety zone under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property and the environment. Anadarko Petroleum Corporation requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. The Coast Guard determined that establishing a safety zone around this facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

### III. Discussion of Proposed Rule

The safety zone proposed by this rulemaking is on the OCS in the deepwater area of the Gulf of Mexico in Green Canyon 860 at the center point of N 27.1114, W 90.7640. The safety zone would be permanent. For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise

ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. The transit of other vessels into and through the safety zone area would be prohibited. Requests for entry will be considered and reviewed on a case-by-case basis. These proposed regulations are consistent with the existing safety zones on other OCS platforms in the Gulf of Mexico. Persons or vessels that require authorization to enter the safety zone must request it from the Commander, Eighth Coast Guard District. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

## IV. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zone established will extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge, but may not interfere with the use of recognized sea lanes essential to navigation. Vessel traffic would be able to safely transit around the proposed safety zone, which would impact a small designated area in the Gulf of Mexico, without significant impediment to their voyage. This safety zone would reduce the risk of allision with the platform and help protect the environment from potential oil spills, in accordance with Coast Guard maritime safety missions.

### *B. Impact on Small Entities*

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

This rulemaking may affect owners or operators of vessels intending to transit or anchor in Green Canyon 860, some of which might be small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic could pass safely around the safety zone using an alternate route. Use of an alternate route may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Vessels would be able to request deviation from this rulemaking to transit through the safety zone. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing a safety zone around an OCS facilities to be minimal, with no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rulemaking would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

Further, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or for Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

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

the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

**V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0476 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

**List of Subjects in 33 CFR Part 147**

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

## PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.877 to read as follows:

**§ 147.877 Safety Zone, Heidelberg Spar, Outer Continental Shelf Facility, Green Canyon 860.**

(a) *Description.* The area within 500 meters of the Heidelberg Spar in the deepwater area of the Gulf of Mexico at Green Canyon 860 is a safety zone. The Heidelberg Spar is located at:
Latitude N 27.1114
Longitude W 90.7640

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

(1) An attending vessel as defined in 147.20;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for Permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Dated: October 18, 2022.

**Richard Timme,**

*RADM, U.S. Coast Guard, Commander, Coast Guard District Eight.*

[FR Doc. 2022–23045 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 147

**[Docket Number USCG–2021–0473]**

**RIN 1625–AA00**

## Safety Zone; Constitution Spar Outer Continental Shelf Facility, Green Canyon Block 680, Gulf of Mexico

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a safety zone on the navigable waters around the Constitution Spar, located in Green Canyon Block 680 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0473 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR David Newcomb, District Eight OCS, U.S. Coast Guard; telephone 504–671–2106, *David.T.Newcomb@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

## II. Background, Purpose, and Legal Basis

Under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life and property on the facilities. The protections included in a safety zone established under 33 CFR part 147 are promoting safety of life and property on the facilities as well as their appurtenances and attending vessels and also for the adjacent waters located in and around each facility. Therefore, a safety zone under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property and the environment. Anadarko Petroleum Corporation requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. The Coast Guard determined that establishing a safety zone around this facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

## III. Discussion of Proposed Rule

The safety zone proposed by this rulemaking is on the OCS in the deepwater area of the Gulf of Mexico in Green Canyon 680 at the center point of N 27.2922, W 90.9680. The safety zone would be permanent. For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. The transit of other vessels into and through the safety zone area would be prohibited. Requests for entry into the zone will be considered and reviewed on a case-by-case basis. These proposed regulations are consistent with the existing safety zones of other OCS platforms in the Gulf of Mexico. Persons or vessels that require authorization to enter the safety zone must request it from the Commander, Eighth Coast Guard District. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

## IV. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zone established will extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge, but may not interfere with the use of recognized sea lanes essential to navigation. Vessel traffic would be able to safely transit around the proposed safety zone, which would impact a small designated area in the Gulf of Mexico, without significant impediment to their voyage. This safety zone would reduce the risk of allision with the platform and help protect the environment from potential oil spills, in accordance with Coast Guard maritime safety missions.

### *B. Impact on Small Entities*

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

This rule may affect owners or operators of vessels intending to transit or anchor in Green Canyon 680, some of which might be small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic could pass safely around the safety zone using an alternate route. Use of an alternate route may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Vessels would be able to request deviation from this rule to transit through the safety zone. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing a safety zone around an OCS facilities to be minimal, with no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various

levels of government. We have analyzed this proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Further, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

## V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0473 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

**List of Subjects in 33 CFR Part 147**

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

## PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.871 to read as follows:

### § 147.871 Safety Zone; Constitution Spar, Outer Continental Shelf Facility, Green Canyon 680, Gulf of Mexico.

(a) *Description.* The area within 500 meters of the Constitution Spar in the deepwater area of the Gulf of Mexico at Green Canyon 680 is a safety zone. The Constitution Spar is located at:

Latitude N 27.2922

Longitude W 90.9680

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

(1) An attending vessel as defined in 147.20;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for Permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Dated: October 18, 2022.

**Richard Timme,**

*Radm, U.S. Coast Guard, Commander, Coast Guard District Eight.*

[FR Doc. 2022–23043 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 147**

**[Docket Number USCG–2021–0474]**

**RIN 1625–AA87**

## Safety Zone; Lucius Spar Outer Continental Shelf Facility, Keathley Canyon Block 875, Gulf of Mexico

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a safety zone around the Lucius Spar, located in Keathley Canyon Block 875 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0474 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR David Newcomb, District Eight OCS, U.S. Coast Guard; telephone 504–671–2106, *David.T.Newcomb@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

### II. Background, Purpose, and Legal Basis

Under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the puposes of protecting life and property on the facilities. The protections included in a safety zone established under 33 CFR part 147 are promoting safety of life and property on the facilities as well as their appurtenances and attending vessels and also for the adjacent waters located in and around each facility. Therefore, a safety zone under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain security of life, property and the environment. Anadarko Petroleum Corporation requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. The Coast Guard determined that establishing a safety zone around this facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

### III. Discussion of Proposed Rule

The safety zone proposed by this rulemaking is on the OCS in the deepwater area of the Gulf of Mexico in Keathley Canyon 875 at the center point of N 26.13196228, W 92.04008253. The safety zone would be permanent. For the purpose of safety security zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. The transit of other vessels and through the safety zone area would be prohibited. Requests for entry will be considered and reviewed on a case-by-case basis. These proposed regulations are consistent with the existing safety zones on other OCS platforms in the Gulf of Mexico. Persons or vessels that require authorization to enter the safety zone must request it from the Commander, Eighth Coast Guard District. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

### IV. Regulatory Analyses

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

#### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zone established will extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge, but may not interfere with the use of recognized sea lanes essential to navigation. Vessel traffic would be able to safely transit around the proposed zone, which would impact a small designated area in the Gulf of Mexico, without significant impediment to their voyage. This zone would reduce the risk of allision with the platform and help protect the environment from potential oil spills, in accordance with Coast Guard maritime security missions.

#### *B. Impact on Small Entities*

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

have a significant economic impact on a substantial number of small entities.

This rule may affect owners or operators of vessels intending to transit or anchor in Keathley Canyon 875, some of which might be small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic would be able to pass safely around the safety zone using an alternate route. Use of an alternate route may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Vessels would be able to request from this rulemaking to transit through the safety zone. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing a safety zone around an OCS facilities to be minimal, with no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rulemaking would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

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

*D. Federalism and Indian Tribal Governments*

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

Further, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or for Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*E. Unfunded Mandates Reform Act*

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

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

## V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0474 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's

eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

**List of Subjects in 33 CFR Part 147**

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

## PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.873 to read as follows:

**§ 147.873 Safety Zone; Lucius Spar, Outer Continental Shelf Facility, Keathley Canyon 875.**

(a) *Description.* The area within 500 meters of the Lucius Spar in the deepwater area of the Gulf of Mexico at Keathley Canyon 875 is a safety zone. The Lucius Spar is located at:

Latitude N 26.13196228

Longitude W 92.04008253

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

(1) An attending vessel as defined in 147.20

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for Permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Dated: October 18, 2022.

**Richard Timme,**

*RADM, U.S. Coast Guard, Commander, Coast Guard District Eight.*

[FR Doc. 2022–23046 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 147

**[Docket Number USCG–2021–0475]**

**RIN 1625–AA00**

## Safety Zone; Horn Mountain Spar Outer Continental Shelf Facility, Mississippi Canyon Block 127, Gulf of Mexico

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a safety zone on the navigable waters around the Horn Mountain Spar, located in Mississippi Canyon Block 127 on the Outer Continental Shelf (OCS) in the Gulf of Mexico. Establishing a safety zone around the facility will significantly reduce the threat of allisions, collisions, security breaches, oil spills, releases of natural gas, and thereby protect the safety of life, property, and the environment. Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2021–0475 using the Federal eRulemaking Portal at *https://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR David Newcomb, District Eight OCS, U.S. Coast Guard; telephone 504–671–2106, *David.T.Newcomb@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
OCS Outer Continental Shelf
§ Section
U.S.C. United States Code

### II. Background, Purpose, and Legal Basis

Under the authority provided in 14 U.S.C. 544, 43 U.S.C. 1333, and Department of Homeland Security Delegation No. 0170.1, 33 CFR part 147 permits the establishment of safety zones for facilities located on the OCS for the purpose of protecting life, property and the marine environment. The protections included in a safety zone established under 33 CFR part 147 are promoting safety of life and property on the facilities as well as their appurtenances and attending vessels and also for the adjacent waters located in and around each facility. Therefore, a safety zone under 33 CFR part 147 may also include provisions to restrict, prevent, or control certain activities, including access by vessels or persons to maintain safety of life, property and the environment. Anadarko Petroleum Corporation requested that the Coast Guard establish a safety zone around its facility located in the deepwater area of the Gulf of Mexico on the OCS. The Coast Guard determined that establishing a safety zone around this facility will significantly reduce the threat of allisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment.

### III. Discussion of Proposed Rule

The safety zone proposed by this rulemaking is on the OCS in the deepwater area of the Gulf of Mexico in Mississippi Canyon Block 127 at the center point of N 28.866, W 88.056. The safety zone would be permanent. For the purpose of safety zones established under 33 CFR part 147, the deepwater area is considered to be waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the vicinity of the safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways.

Only vessels measuring less than 100 feet in length overall and not engaged in towing, attending vessels as defined in 33 CFR 147.20, or those vessels specifically authorized by the Eighth Coast Guard District Commander or a designated representative are permitted to enter or remain in the safety zone.

The transit of other vessels into and through the safety zone area would be prohibited. Requests for entry will be considered and reviewed on a case-by-case basis. These proposed regulations are consistent with the existing safety zones on other OCS platforms in the Gulf of Mexico. Persons or vessels that require authorization to enter the safety zone must request it from the Commander, Eighth Coast Guard District. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

## IV. Regulatory Analyses

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

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

Aligning with 33 CFR 147.15, the safety zone established will extend to a maximum distance of 500 meters around the OCS facility measured from each point on its outer edge, but may not interfere with the use of recognized sea lanes essential to navigation. Vessel traffic would be able to safely transit around the proposed safety zone, which would impact a small designated area in the Gulf of Mexico, without significant impediment to their voyage. This safety zone would reduce the risk of allision with the platform and help protect the environment from potential oil spills, in accordance with Coast Guard maritime safety missions.

### *B. Impact on Small Entities*

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

This rulemaking may affect owners or operators of vessels intending to transit or anchor in Mississippi Canyon 127, some of which might be small entities.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic could pass safely around the safety zone using an alternate route. Use of an alternate route may cause minimal delay in reaching a final destination, depending on other traffic in the area and vessel speed. Vessels would also be able to request deviation from this rulemaking to transit through the safety zone. Such requests will be considered on a case-by-case basis and may be authorized by the Commander, Eighth Coast Guard District or a designated representative. Therefore, the Coast Guard expects any impact of this rulemaking establishing a safety zone around an OCS facilities to be minimal, with no significant economic impact on small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rulemaking would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rulemaking would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

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

### *D. Federalism and Indian Tribal Governments*

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

Further, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone around an OCS facility to protect life, property, and the marine environment. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket,

see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

*G. Protest Activities*

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

**V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2021–0475 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

*Personal information.* We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

**List of Subjects in 33 CFR Part 147**

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 147 as follows:

## PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 544; 43 U.S.C. 1333; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.875 to read as follows:

**§ 147.875 Safety Zone; Horn Mountain Spar, Outer Continental Shelf Facility, Mississippi Canyon 127.**

(a) *Description.* The area within 500 meters of the Horn Mountain Spar in the deepwater area of the Gulf of Mexico at Mississippi Canyon 127 is a safety zone. The Horn Mountain Spar is located at:

Latitude N 28.8660

Longitude W 88.0562

(b) *Regulation.* No vessel may enter or remain in this safety zone except for the following:

(1) An attending vessel as defined in 147.20;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

(c) *Requests for Permission.* Persons or vessels requiring authorization to enter the safety zone must request permission from the Commander, Eighth Coast Guard District or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the Commander or designated representative.

Dated: October 18, 2022.

**Richard Timme,**

*RADM, U.S. Coast Guard, Commander, Coast Guard District Eight.*

[FR Doc. 2022–23044 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF VETERANS AFFAIRS

**38 CFR Part 17**

**RIN 2900–AR55**

## CHAMPVA Coverage of Audio-Only Telehealth, Mental Health Services, and Cost Sharing for Certain Contraceptive Services and Contraceptive Products Approved, Cleared, or Granted by FDA

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes amending its medical regulations regarding Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) coverage. This rulemaking would align with the Department of Defense for benefits administered through TRICARE and more closely align with requirements of other Federal programs. This rulemaking would remove the exclusion from CHAMPVA coverage for audio-only telehealth. In addition, we propose removing limitations on outpatient mental health visits as well as removing cost sharing requirements for certain contraceptive services and contraceptive products approved, cleared, or granted by the U.S. Food and Drug Administration (FDA).

**DATES:** Comments must be received by VA on or before November 23, 2022.

**ADDRESSES:** Comments must be submitted through *www.regulations.gov.* Except as provided below, comments received before the close of the comment period will be available at *www.regulations.gov* for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* VA will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Joseph Duran, Director, Policy, Office of Integrated Veteran Care (OIVC), Veterans Health Administration (VHA), Department of Veterans Affairs, Ptarmigan at Cherry Creek, Denver, CO 80209; 303–370–1637 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department of Veterans Affairs (VA) proposes amending Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) exclusions to allow coverage of telephonic (audio-only) medical visits and to remove limits on mental health coverage to be consistent with the Department of Defense (DoD) TRICARE program and current standards of practice in mental health and substance use care as well as the Mental Health Parity and Addiction Equity Act of 2008. In addition, we propose removing cost-sharing requirements for contraceptive services and contraceptive products approved, cleared, or granted by the U.S. Food & Drug Administration (FDA). VA believes these proposed changes are consistent with the goals and objectives of Executive Order (E.O.) 14070 (April 5, 2022) titled, ''Continuing to Strengthen Americans' Access to Affordable, Quality Health Coverage.'' The E.O. directs federal agencies ''with responsibilities related to Americans' access to health coverage'' to ''review agency actions to identify ways to continue to expand the availability of affordable health coverage.''

Pursuant to 38 U.S.C. 1781, CHAMPVA is a health benefits program in which VA shares the cost of covered medical care services and supplies with certain spouses, children, survivors, and caregivers of veterans who meet specific eligibility criteria. Under section 1781(b), VA ''shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 [United States Code] (CHAMPUS).'' VA has implemented this requirement through the promulgation of its regulations at 38 CFR 17.270 *et seq.* We note that VA has consistently interpreted the ''same or similar'' language in 38 U.S.C. 1781(b) to mean that CHAMPVA is not required to provide coverage identical to that provided by TRICARE. When warranted, CHAMPVA coverage and exclusions may differ from TRICARE due to factors such as dissimilarities in the respective patient populations, or policy considerations.

We note that CHAMPUS was the original program administered by DoD to provide civilian health benefits for active duty military personnel, military retirees, and their dependents. 32 CFR 199.1. Although the CHAMPUS program is still referenced in DoD regulations, DoD effectively replaced the CHAMPUS program with what was commonly known as the ''TRICARE Standard'' plan (''TRICARE''). See 32 CFR 199.1(r), 199.17(a)(6)(ii)(D) (identifying ''TRICARE Standard'' as the basic CHAMPUS program available prior to January 1, 2018). In December 2017, Section 701 of the National Defense Authorization Act for Fiscal Year 2017, Public Law 114–328, required inter alia the termination of TRICARE Standard as a distinct plan and the establishment of the TRICARE Select healthcare option. The CHAMPUS basic program benefits under 32 CFR 199.4 continue as the baseline of benefits for TRICARE Select. VA, therefore, administers CHAMPVA in the same or similar manner as TRICARE Select and, except where we discuss laws or regulations generally applicable to all TRICARE program options, references in this rulemaking to ''TRICARE'' are to TRICARE Select.

**Audio-Only Telehealth**

Historically, TRICARE regulations excluded audio-only telehealth. 32 CFR 199.4(g)(52) (2019). Similarly, the CHAMPVA regulations at 38 CFR 17.272(a)(44) specifically exclude coverage for audio-only telehealth. However, on January 31, 2020, the Secretary of Health and Human Services (HHS) determined that a public health emergency existed since January 27, 2020. On March 13, 2020, the President declared a national emergency due to COVID–19. In light of the spread of COVID–19, the Centers for Disease Control and Prevention (CDC) urged Americans to work and engage in schooling from home whenever possible as well as to avoid congregating in groups. Various States and localities imposed more rigid restrictions on gatherings, requiring many businesses to restrict or close their operations, to prevent further spread of the disease. To prevent the spread of COVID–19 in accordance with local restrictions and guidelines, and to prioritize in-person treatments for seriously ill patients, health care professionals around the country limited in-person medical appointments. While in-person appointments were converted to video telehealth visits when possible, some patients were limited to audio-only telehealth appointments because either they or their providers didn't have access to the communications equipment, internet service, or internet bandwidth required for video telehealth.

DoD published an interim final rule (IFR) on May 12, 2020, effective that same day, to temporarily remove the exclusion for audio-only telehealth. 85 FR 27927. DoD temporarily removed the exclusion because doing so was necessary to ensure the health and safety of TRICARE beneficiaries. Allowing audio-only telehealth would permit beneficiaries to have their symptoms (which include COVID–19 symptoms, or symptoms of other covered illness or injury) evaluated by a provider over the telephone before, or in lieu of, obtaining an in-person appointment, which ultimately may not be necessary. In 2022, DoD provided that this temporary removal of the exclusion would cease to be in effect upon termination of the national emergency declared by the President in Proclamation 9994, in accordance with applicable law and regulation (*e.g.,* 50 U.S.C. 1622(a)).

Following publication of the IFR, DoD reviewed claims data from TRICARE private sector care as well as published industry information from the Centers for Medicare & Medicaid Services (CMS), health insurance plans, and statements from physicians' professional organizations regarding telephonic office visits to determine if this should be a permanent telehealth benefit. 87 FR 33002 (June 1, 2022). This data reflected utilization rates for telehealth services including telephonic (audio-only) medical visits, while statements from physicians' professional organizations reflected opinions of many health care provider regarding telehealth. The TRICARE claims data between mid-March and mid-September 2020 indicated beneficiary utilization of telephonic office visits was a small portion of all telehealth claims. Medicare and health insurance plans reported data indicating substantial utilization of telephonic office visits. Physicians' professional organizations issued statements indicating that physicians had a favorable experience with telephonic office visits.

DoD published a final rule on June 1, 2022 (87 FR 33013) revising 32 CFR 199.4(g)(52)(i) to provide that services or advice rendered by telephone are excluded with the exception of medically necessary and appropriate telephonic office visits which are covered as authorized in 32 CFR 199.4(c)(1)(iii). That provision states in pertinent part that ''Health care services covered by TRICARE and provided

through the use of telehealth modalities including telephone services for: telephonic office visits; telephonic consultations; electronic transmission of data or biotelemetry or remote physiologic monitoring services and supplies, are covered services to the same extent as if provided in person at the location of the patient if those services are medically necessary and appropriate for such modalities.'' The final rule made these provisions permanent and not limited to the duration of the public health emergency. We note that, effective January 1, 2022, CMS rules have also permanently changed to allow for Medicare coverage of audio-only telehealth for mental health services or substance use disorders (MH/SUD) in certain circumstances. See 42 CFR 405.2463(b)(3) and 410.67(b)(4) as well as discussion at 86 FR 65059, (November 19, 2021). Additionally, states have broad flexibility to cover and pay for Medicaid services delivered via telehealth, including to determine which telehealth modalities may be used to deliver Medicaid-covered services. Nothing in federal Medicaid law or policy prevents states from covering and paying for Medicaid services that are delivered via audio-only technologies. This broad flexibility to cover and pay for Medicaid services delivered via telehealth, including via audio-only technologies, was in place prior to the COVID–19 public health emergency. CMS states that this flexibility will remain in place after the public health emergency ends. See *https://www.medicaid.gov/medicaid/benefits/downloads/medicaid-chip-telehealth-toolkit.pdf.*

HHS Office of Civil Rights has issued guidance on how covered health care providers and health plans can use remote communication technologies to provide audio-only telehealth services when such communications are conducted in a manner that is consistent with the applicable requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy, Security, and Breach Notification Rule (collectively, the ''HIPAA Rules''). This guidance explains how the HIPAA Rules permit health care providers and plans to offer audio telehealth while protecting the privacy and security of individuals' health information. See *https://www.hhs.gov/about/news/2022/06/13/hhs-issues-guidance-hipaa-audio-telehealth.html.*

VA proposes amending its regulations at 38 CFR 17.272(a)(44) to remove the exclusion of audio-only telehealth for CHAMPVA beneficiaries for services provided on or after May 12, 2020. This proposed amendment would align the administration of CHAMPVA to be the same or similar as TRICARE. VA believes this proposed change appropriate in order to ensure the safety of CHAMPVA beneficiaries as well as others in the community. The TRICARE rulemaking on audio-only telehealth was initially based on the need to respond to a new reality for clinical care delivery due to the declared COVID–19 public health emergency. DoD later determined that this exception should remain in place. As explained by DoD in its rulemaking, while existing telehealth platforms that incorporate both audio and video/visual two-way communication are preferred and already allowable for beneficiaries, there may be instances when this is not possible. For example, a provider, especially in a rural or medically underserved area, may not have access to broadband capability, or a beneficiary may not have in-home technology to support two-way audio/video communication. VA shares these concerns relative to CHAMPVA beneficiaries, many of whom live in rural areas or may have insufficient disposable income to purchase and maintain two-way audio/video communication in the home. As discussed below, demand by CHAMPVA beneficiaries for audio-only telehealth remains steady (per 2021 data).

We note that this proposed amendment does not expand the services available to CHAMPVA beneficiaries; instead, it would make otherwise-covered services, when rendered via telephone (audio-only), eligible for reimbursement and cost sharing when care is medically necessary and appropriate and meets all other requirements.

This proposed amendment would apply retroactively to episodes of health care rendered during the President's declared national emergency in the US. Retroactivity would allow reimbursement of medically necessary audio-only telehealth services dating back to the date TRICARE published its rulemaking, if such claims are timely filed within 180 days of publication of the final rulemaking, in accordance with the provisions of 38 CFR 17.276(a)(3). VA intends to provide notice to affected beneficiaries and providers when the final rule publishes, stating that claims for payment or reimbursement must be filed within 180 days of the effective date of the final rule. Retroactivity provides the greatest benefit to CHAMPVA beneficiaries and is consistent with the requirement under 38 U.S.C. 1781(b) to provide medical care in a manner that is the same or similar to TRICARE, whose dates of coverage began on May 12, 2020. Additionally, audio-only telehealth claims submitted to the program were denied, requiring the beneficiary to pay for their audio-only telehealth visit, further exacerbating the financial burden of the beneficiary. Allowing retrospective reimbursement up to the CHAMPVA allowable amount will provide the beneficiary compensation for their payment for medically necessary care during the declared national emergency.

CHAMPVA claims data indicate that audio-only telehealth visits appear to be utilized to a greater extent by CHAMPVA beneficiaries than usage reflected in TRICARE claims data as reported at 87 FR 33002. Claims data indicate that the greatest financial burden to CHAMPVA beneficiaries due to denials of audio-only telehealth claims occurred early in the pandemic before they and their health care providers were able to adapt to the pandemic-caused shift towards conducting business online. The highest demand for CHAMPVA coverage of audio-only telehealth occurred in April 2020 when approximately 18,400 audio-only visits were billed to CHAMPVA. Claims data indicates that demand for audio-only telehealth has continued throughout the pandemic period but tapered off in 2021 to a monthly average of approximately 3,000 audio-only telehealth visits.

Therefore, in this rulemaking, we would revise 38 CFR 17.272(a)(44) to state that services or advice rendered by telephone (audio only) are not excluded when otherwise covered CHAMPVA services are provided to a beneficiary through this modality if the services are medically necessary and appropriate. Specifically, section 17.272(a)(44) would be amended to read: ''Telephone Services, with the following exceptions:'' Section 17.272(a)(44)(i) would be redesignated as 38 CFR 17.272(a)(44)(ii)(A) and 17.272(a)(44)(i) would read: ''Services or advice rendered by telephone (audio only) on or after May 12, 2020, are not excluded when the services are otherwise covered CHAMPVA services provided through this modality and are medically necessary and appropriate.'' Section 17.272(a)(44)(ii) would be redesignated as 38 CFR 17.272(a)(44)(ii)(B) and 17.272(a)(44)(ii) would read: ''A diagnostic or monitoring procedure which incorporates electronic transmission of data or remote detection and measurement of a condition, activity, or function (biotelemetry) is

covered when:''. Current section 17.272(a)(44)(iii) would be redesignated as 38 CFR 17.272(a)(44)(ii)(C) without change to the text.

**Parity for Mental Health Services**

The first federal law specifically related to the coverage of mental health services by private health insurers and group health plans was the Mental Health Parity Act (MHPA) of 1996 (Title VII, § 702 of Pub. L. 104–204, September 26, 1996) which required annual or lifetime dollar limits on mental health benefits to be no lower than any such dollar limits for medical and surgical benefits offered by a group health plan or health insurance issuer offering coverage in connection with a group health plan.

The MHPA was largely superseded by the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Title V, Subtitle B, §§ 511 and 512 of Pub. L. 110–343, October 3, 2008). MHPAEA generally prevents group health plans and health insurance issuers that provide mental health and/or substance use disorder (MH/SUD) benefits from imposing less favorable (*e.g.,* separate costs or more restrictive) benefit limitations on those benefits than those imposed on medical/surgical benefits. The Patient Protection and Affordable Care Act (Pub. L. 111–148, March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, March 30, 2010), collectively referred to as the ''Affordable Care Act'' or the ACA, extended this requirement by operation of law to individual health insurance coverage. See also E.O. 13625 August 31, 2012; E.O. 14009 (January 28, 2021); E.O. 14070 (April 5, 2022).

In general, under these laws, financial requirements (such as coinsurance and copayments) and treatment limits (such as visit limits) imposed on MH/SUD benefits must be no more restrictive than the predominant financial requirements or treatment limitations that apply to substantially all medical/surgical benefits in a classification of benefits (this is referred to as the ''substantially all/predominant test''). MH/SUD benefits also may not be subject to any separate cost sharing requirements or treatment limitations that only apply to such benefits.

The above-referenced legal provisions related to MH/SUD benefits parity with medical/surgical benefits are not applicable to CHAMPVA or TRICARE benefits. On August 26, 2014, VA and DoD issued a joint fact sheet in conjunction with issuance of a series of Executive Orders regarding mental health services for veterans, service members, and their families. DoD stated that it had initiated action to do what it can under its authority to eliminate unnecessary quantitative limits under TRICARE for MH/SUD coverage, thus achieving parity between MH/SUD and medical/surgical benefits. With publication of a final rule on September 2, 2016 (81 FR 61085), TRICARE established parity for MH/SUD coverage, similar to that required of plans covered by the ACA. CHAMPVA's current practice is to routinely waive day limitations/exclusions on mental health services to ensure that beneficiaries receive needed mental health care. VA recognizes that the existing regulatory language regarding quantitative limits on mental health care should be amended to remove any ambiguity. In the past this was not a high priority for VA, as the practical end result of CHAMPVA waiving such limitations and exclusions is that a beneficiary experienced no discontinuity in care. In addition, we note that CHAMPVA has responded to several Congressional inquiries related to removal of the day limitations for mental health care, stating we plan to amend the existing regulation following publication of the final rulemaking that published July 13, 2022 (87 FR 41599). We are now addressing this oversight, in conjunction with making proposed changes to cost sharing for contraceptive care and services that would more closely align with ACA requirements for private health insurers.

Current 38 CFR 17.272(a)(57)–(62) addresses exclusions from CHAMPVA coverage related to mental health services. These provisions cover exclusions for inpatient and outpatient mental health service, residential treatment care, institutional services for partial hospitalization, detoxification in a hospital setting or rehabilitation facility, outpatient substance abuse services, and family therapy for substance abuse. The exclusions vary by mental health service provided, some exclusions are per fiscal year while others are per benefit period, and all have exclusions for specific services in excess of certain time periods. Some exclusions apply unless a waiver for extended coverage is granted in advance. CHAMPVA does not apply similar quantitative limits on the receipt of outpatient, residential, or inpatient services for other classes of medical care provided to eligible beneficiaries.

VA is required in 38 U.S.C. 1781(b) to provide medical care in a manner that is the same or similar to TRICARE medical benefits and subject to the same or similar limitations. VA supports parity in CHAMPVA coverage between MH/SUD benefits and other medical benefits. There are no CHAMPVA quantitative limits on non-MH/SUD medical benefits, and limitations on the number of mental health visits without the need for further approval is inconsistent with establishing parity. VA believes there are no dissimilarities in the respective TRICARE and CHAMPVA patient populations that would support continuation of quantitative limits on MH/SUD visits, and no similar limitation is imposed on mental health care for eligible veterans receiving health care from VA. Although the current regulatory allowance for waivers on the quantitative limits is imposed on outpatient, inpatient, and institutional MH coverage based on medical need, we acknowledge regulatory waivers based on medical need do not apply to SUD services described in current § 17.272(a)(57)–(62). We therefore seek to remove unnecessary quantitative limits on MH/SUD coverage so that CHAMPVA is fully aligned with TRICARE MH/SUD coverage. More important, this change is in the best health care interests of our beneficiaries. VA proposes removing current paragraphs (a)(57) through (62) and redesignating subsequent paragraphs accordingly. In addition, we would remove current § 17.273(c) which requires preauthorization for outpatient mental health visits in excess of 23 per calendar year and/or more than two (2) sessions per week. Current § 17.273(d) through (f) would be redesignated paragraphs (c) through (e).

Cost sharing for contraceptive services, and contraceptive products approved, cleared, or granted by FDA.

Under the ACA, contraceptive care is considered to be a preventive health service for women and as such most private health plans in the United States must cover the full range of contraceptive methods, services, and counseling without patient out-of-pocket costs like coinsurance, copayments, or deductibles. See 42 U.S.C. 300gg–13(a)(4), 45 CFR 147.130(a)(1)(iv), 29 CFR 2590.715–2713(a)(1)(iv), 26 CFR 54.9815–2713(a)(1)(iv), and Health Resources and Services Administration (HRSA) Women's Preventive Services Guidelines *https://www.hrsa.gov/womens-guidelines.* As noted in a letter dated June 27, 2022, issued jointly by HHS, the Department of the Treasury, and the Department of Labor, ''The ACA requires that all FDA-approved, cleared, or granted contraceptive products that are determined by an individual's medical provider to be medically appropriate for the individual must be

covered under the individual's non-grandfathered group health plan or health insurance coverage without cost sharing.'' The ACA provisions cited above do not apply to TRICARE or CHAMPVA.

The scope of TRICARE's family planning benefit is found at 32 CFR 199.4(e)(3), and is consistent with that provided through CHAMPVA, including plan exclusions. TRICARE Policy Manual 6010.60–M (April 1, 2015) Chapter 7, section 2.3 provides that certain family planning procedures and methods are subject to cost sharing. CHAMPVA is established as a cost sharing program. See 38 CFR 17.270(a). VA shares the cost of medically necessary services and supplies for eligible beneficiaries as set forth in 38 CFR 17.271 through 17.278. With the exception of services obtained through VA facilities, CHAMPVA pays the CHAMPVA-determined allowable amount less the deductible, if applicable, and less the beneficiary cost share. 38 CFR 17.274.

As noted, VA is required to furnish medical care in CHAMPVA in the same or similar manner as TRICARE and subject to the same or similar limitations as TRICARE. However, as previously stated, VA has not interpreted the ''same or similar'' language in 38 U.S.C. 1781(b) to mean that CHAMPVA coverage must be identical per service item or limitation to that provided under TRICARE, particularly in light of the differing size and composition of our two beneficiary populations. The words ''or similar'' would be surplusage if CHAMPVA coverage had to be identical to that under TRICARE. Rather, VA interprets the statutory phrase ''or similar'' to allow it to deviate from TRICARE when VA determines that a deviation would best serve the needs of CHAMPVA beneficiaries. The CHAMPVA beneficiary population is a fraction of that covered by TRICARE, and the average age of those receiving CHAMPVA benefits is higher than that for TRICARE. A primary focus of CHAMPVA is providing such health care that would better promote the long-term health of CHAMPVA beneficiaries. As such, not every aspect of CHAMPVA will be identical to TRICARE. VA has regulated services covered by CHAMPVA to mean those medical services that are medically necessary and appropriate for the treatment of a condition and that are not specifically excluded. 38 CFR 17.270 *et seq.*

An example of CHAMPVA exclusions differing from TRICARE is coverage for annual physical exams. TRICARE does not include an annual physical exam benefit for all TRICARE beneficiaries while CHAMPVA determined that this benefit should be available to all CHAMPVA beneficiaries. 38 CFR 17.272(a)(30)(xiii). VA did not believe that limiting the provision of annual exams was appropriate from a clinical perspective because these types of comprehensive physical examinations may identify incipient medical problems. 83 FR 2401 (January 17, 2018).

Additionally, VA has previously deviated from TRICARE in amending its CHAMPVA regulations to provide care that is broader than that offered by TRICARE when it determined that these deviations were necessary to best provide services to the CHAMPVA population while remaining ''similar'' to TRICARE. For instance, Public Law 110–417 § 711(b) prohibits waiver of copayments for preventive care provided to Medicare-eligible TRICARE beneficiaries. Conversely, CHAMPVA waives cost-sharing requirements for preventive services for Medicare-eligible beneficiaries. 38 CFR 17.274. VA determined that enforcing cost-sharing requirements for Medicare-eligible beneficiaries for preventive services would unfairly disadvantage them as compared to CHAMPVA beneficiaries with other health insurance. 83 FR 2396, 2404 (January 17, 2018).

In these examples, VA provided CHAMPVA benefits beyond those benefits offered by TRICARE when it determined that providing such health care would better promote the long-term health of CHAMPVA beneficiaries. In so doing, VA is providing for health care in a manner similar to TRICARE, but the care is being provided in a manner that best serves the CHAMPVA population. Similarly, here, VA is aligning CHAMPVA benefits with TRICARE benefits in certain ways, but VA is also providing benefits beyond those offered by TRICARE to better promote the long-term health of CHAMPVA beneficiaries.

While TRICARE currently requires cost sharing for certain family planning care and services not provided by a military treatment facility, CHAMPVA beneficiaries are a smaller population comprised of dependents of service members who died in service, veterans who are permanently and totally disabled, or veterans who are severely injured and qualify for a VA-recognized caregiver and who are not otherwise eligible for TRICARE. In contrast to TRICARE dependents, these beneficiaries' family planning goals or objectives may be affected by these eligibility-based life circumstances. Some CHAMPVA beneficiaries may not have other health insurance through which they could receive this type of care or service at no cost to them. If so, current CHAMPVA cost sharing obligations may constitute a barrier to access. For these reasons, VA believes that contraceptive care should be exempt from CHAMPVA cost share requirements, and, in this regard, more closely aligned with the ACA.

VA proposes amending § 17.274 to exempt contraceptive services, and contraceptive products approved, cleared, or granted by FDA from cost sharing requirements. We would amend § 17.274 by adding a new paragraph (f) to state that cost sharing and annual deductible requirements under 38 CFR 17.274(a) and (b) do not apply to: (1) surgical insertion, removal, and replacement of intrauterine systems and contraceptive implants; (2) measurement for, and purchase of, contraceptive diaphragms or similar FDA approved, cleared, or granted medical devices, including remeasurement and replacement; (3) prescription contraceptives, and prescription or nonprescription contraceptives used as emergency contraceptives; (4) surgical sterilization; and (5) outpatient care or evaluation associated with provision of services listed in proposed paragraph (f)(1)–(4).

We would also amend § 17.272(a)(28) to conform to proposed § 17.274(f)(3). Currently, § 17.272(a)(28) excludes non-prescription contraceptives from CHAMPVA coverage. We would amend that paragraph to state that nonprescription contraceptives are excluded, except those non-prescription contraceptives used as emergency contraceptives.

**30-Day Comment Period**

The Administrative Procedure Act requires federal agencies to publish a notice of proposed rulemaking in the **Federal Register** and give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. 5 U.S.C. 553(b) and (c). There is no minimum period specified in the statute for the comment period to remain open, and it often varies with the complexity of the rule. Most comment periods last between 30 and 60 days, and some are re-opened if the agency believes that there was insufficient time for the public to respond or that the agency did not receive as much feedback as it would like. The agency must then consider all comments that are submitted in determining the content of the final rulemaking. Executive Order 12866 Regulatory Planning and Review

(September 30, 1993) provides at section 6(a)(1) that ''each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days.''

VA has determined that a 30-day public comment period should be provided for this proposed rulemaking. VA believes the proposed changes to CHAMPVA program exclusions and cost sharing are not complex and would align the program with longstanding legislative initiatives. If, after the close of the public comment period, VA determines that additional public input is necessary, we will provide additional opportunity for public comment.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, or tribal governments, or on the private sector.

**Paperwork Reduction Act**

This proposed rule includes provisions constituting a revised collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

OMB assigns control numbers to collections of information it approves. In this case, OMB assigned OMB Control Number 2900–0219 for this approved information collection. VA 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. If OMB does not approve the revised collection of information as requested, VA will immediately remove the provisions containing the collection of information or take such other action as is directed by OMB.

Comments on the revised collection of information contained in this rulemaking should be submitted through *www.regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AR55 CHAMPVA coverage of audio-only telehealth, mental health services, and cost sharing for certain contraceptive services and contraceptive products approved, cleared, or granted by FDA'' should be sent within 30 days of publication of this rulemaking. The collection of information associated with this rulemaking can be viewed at: *www.reginfo.gov/public/do/PRAMain.*

OMB is required to make a decision concerning the revised collection of information contained in this rulemaking between 30 and 60 days after publication of this rulemaking in the **Federal Register** (FR). Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the provisions of this rulemaking.

The Department considers comments by the public on new collections of information in—

- Evaluating whether the new collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the new collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The collection of information associated with this rulemaking contained in 38 CFR 17.272 is described immediately following this paragraph, under its respective title. The paragraph below addresses only the revised number of respondents attributable to this rulemaking. OMB has previously approved information collection related to filing of CHAMPVA health benefits claims based on an estimate of 55,000 respondents annually.

*Title:* Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) Benefits Forms.

*OMB Control No:* 2900–0219.

*CFR Provision:* 38 CFR 17.272(a)(44).

- *Summary of collection of information:* Proposed 38 CFR 17.272(a)(44) would remove the exclusion of CHAMPVA benefits coverage for audio-only telehealth. Previously denied claims for audio-only telehealth would have to be resubmitted by the provider, or by the CHAMPVA beneficiary if the beneficiary has already paid for that medical service. To receive payment or reimbursement, submission of a VA Form 10–5979a CHAMPVA claim form is required with supporting evidence.
- *Description of need for information and proposed use of information:* VA cannot pay for medical benefits, or reimburse a CHAMPVA beneficiary for previously paid medical expenses, in the absence of a filed claim. In this case, that claim would be related to a previously denied claim for an audio-only telehealth visit.
- *Description of likely respondents:* Health care providers and CHAMPVA beneficiaries.
- *Estimated number of respondents:* 74,914 in FY2022. This represents health care providers and CHAMPVA beneficiaries with denied claims for audio-only telehealth.
- *Estimated frequency of responses:* One time.
- *Estimated average burden per response:* 10 minutes for respondents.
- *Estimated total annual reporting and recordkeeping burden:* Using the annual number of 74,914 respondents, VA estimates a total annual reporting and recordkeeping burden of 12,486 hours for respondents.
- *Estimated cost to respondents per year:* VA estimates the annual cost to respondents to be $349,732.86. This is based on Bureau of Labor Statistics mean hourly wage data for BLS wage code ''00–0000 All Occupations'' of $28.01 per hour × 12,486 hours.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would not have a

significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would allow for payment or reimbursement of audio-only telehealth services on behalf of CHAMPVA beneficiaries, provide for parity between mental health and substance use disorder care and other medical care, and eliminate cost sharing for certain contraceptive services and contraceptive products approved, cleared, or granted by FDA. Therefore, it would only affect individuals who are CHAMPVA beneficiaries. Without this rulemaking, health care providers who may be small entities would still receive payment for services, the payment would be from the CHAMPVA beneficiary and not from VA. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

**Assistance Listing**

The Assistance listing number and titles for the program affected by this document is 64.039—CHAMPVA.

**List of Subjects in 38 CFR Part 17**

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

**Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved this document on October 4, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

**Jeffrey M. Martin,**

*Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs (VA) proposes to amend 38 CFR part 17 as follows:

## PART 17—MEDICAL

■ 1. The general authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.272 by:
■ a. Revising paragraphs (a)(28) and (a)(44);
■ b. Removing paragraphs (a)(57) through (62);
■ c. Redesignating paragraphs (a)(63) through (83) as paragraphs (a)(57) through (77).

The revisions read as follows:

**§ 17.272 Benefits limitations/exclusions.**

(a) * * *

(28) Nonprescription contraceptives, except those nonprescription contraceptives used as emergency contraceptives.

* * * * *

(44) Telephone Services, with the following exceptions:

(i) Services or advice rendered by telephone (audio only) on or after May 12, 2020, are not excluded when the services are otherwise covered CHAMPVA services provided through this modality and are medically necessary and appropriate.

(ii) A diagnostic or monitoring procedure which incorporates electronic transmission of data or remote detection and measurement of a condition, activity, or function (biotelemetry) is covered when:

(A) The procedure, without electronic data transmission, is a covered benefit; and

(B) The addition of electronic data transmission or biotelemetry improves the management of a clinical condition in defined circumstances; and

(C) The electronic data or biotelemetry device has been classified by the U.S. Food and Drug Administration, either separately or as part of a system, for use consistent with the medical condition and clinical management of such condition.

* * * * *

**§ 17.273 [Amended]**

■ 3. Amend § 17.273 by removing paragraph (c), and redesignating paragraphs (d) through (f) as paragraphs (c) through (e).

■ 4. Amend § 17.274 by adding a new paragraph (f) to read as follows:

**§ 17.274 Cost sharing.**

* * * * *

(f) Cost sharing and annual deductible requirements under paragraphs (a) and (b) of this section do not apply to:

(1) Surgical insertion, removal, and replacement of intrauterine systems and contraceptive implants;

(2) Measurement for, and purchase of, contraceptive diaphragms or similar FDA approved, cleared, or granted medical devices, including remeasurement and replacement;

(3) Prescription contraceptives, and prescription or nonprescription contraceptives used as emergency contraceptives;

(4) Surgical sterilization; and

(5) Outpatient care or evaluation associated with provision of family planning services listed in paragraph (f)(1) through (4) of this section.

[FR Doc. 2022–22905 Filed 10–21–22; 8:45 am]

**BILLING CODE 8320–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2020–0053; FRL–9410–06–OCSPP]**

## Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities September 2022

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of filing of petition and request for comment.

**SUMMARY:** This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before November 23, 2022.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2020–0053, through the *Federal eRulemaking Portal* 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:** Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

## II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *https://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

*A. Amended Tolerances for Non-Inerts*

*PP1E8960.* EPA–HQ–OPP–2022–0014. Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to remove the established tolerances for residues in 40 CFR 180.473, glufosinate ammonium, butanoic acid, 2-amino-4-hydroxymethylphosphinyl monoammonium salt, and its metabolites, 2-acetylamino-4-hydroxymethyl phosphinyl butanoic acid, and 3-hydroxymethylphosphinyl propanoic acid, expressed as 2-amino-4 hydroxymethylphosphinyl butanoic acid equivalents including its metabolites and degradates in or on the following raw agricultural plant commodities: Avocado at 0.03 parts per million (ppm); banana at 0.30 ppm; banana, pulp at 0.20 ppm; and fig at 0.07 ppm. *Contact:* RD.

*B. New Tolerances for Non-Inerts*

*PP 1E8947.* EPA–HQ–OPP–2021–0744. Syngenta Crop Protection, LLC, 410 Swing Road, Greensboro, NC 27409, requests to establish an import tolerance in 40 CFR part 180 for residues of the fungicide, fludioxonil in or on mango at 15 ppm and papaya at 8 ppm. The analytical method uses Syngenta Crop Protection Method AG–597B. This method has passed an EPA petition method validation for several commodities, which is currently the enforcement method used to measure and evaluate the chemical fludioxonil. *Contact:* RD.

*PP 2F9013.* EPA–HQ–OPP–2022–0732. Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the lambda-cyhalothrin, in or on the raw agricultural commodity: Fruit, citrus, group 10–10 at 0.5 ppm; fruit, citrus, group 10–10, oil at 30 ppm; fruit, citrus, group 10–10, dried pulp at 3 ppm; rapeseed subgroup 20A at 1.0 ppm; rapeseed subgroup 20A, oil at 2.0 ppm; sunflower subgroup 20B at 0.2 ppm; and sunflower subgroup 20B, oil at 0.3 ppm. The ICI Method 81 PRAM 81 is used to measure and evaluate the chemical lambda-cyhalothrin and its epimer in plant matrices. *Contact:* RD.

*C. New Tolerances for Non-Inerts*

1. *PP 1E8960.* EPA–HQ–OPP–2022–0014. IR–4, IR–4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to establish tolerances in 40 CFR 180.473 for residues of glufosinate ammonium, butanoic acid, 2-amino-4-hydroxymethylphosphinyl monoammonium salt, and its metabolites, 2-acetylamino-4-hydroxymethyl phosphinyl butanoic acid, and 3-hydroxymethylphosphinyl propanoic acid, expressed as 2-amino-4 hydroxymethylphosphinyl butanoic acid equivalents in or on the following raw agricultural plant commodities: Tropical and subtropical, medium to large fruit, edible peel, subgroup 23B at 0.07 ppm; tropical and subtropical, medium to large fruit, smooth, inedible peel, subgroup 24B at 0.2 ppm; and tropical and subtropical, small fruit, inedible peel, subgroup 24A at 0.03 ppm. Additionally, IR–4 requests to establish tolerances with regional restrictions in 40 CFR 180.473 for residues of glufosinate ammonium in or on grass, forage at 0.15 ppm; and grass, hay at 0.2 ppm. A high-performance

liquid chromatography-electrospray ionization/tandem mass spectrometry (LC/MS/MS). *Contact:* RD.

2. *PP 2E9007.* EPA–HQ–OPP–2022–0644. IR–4, IR–4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to establish a tolerance in 40 CFR 180.516 for residues of the fungicide, fludioxonil: 4-2, 2-difluoro-1,3-benzodioxol-4-yl-1-H-pyrrole-3-carbonitrile in or on cranberry at 0.04 ppm. Analytical method AG–597B was used to measure and evaluate the chemical. *Contact:* RD.

3. *PP 2F9013.* EPA–HQ–OPP–2022–0732. Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the lambda-cyhalothrin, in or on the raw agricultural commodity: Fruit, citrus, group 10–10 at 0.5 ppm; fruit, citrus, group 10–10, oil at 30 ppm; fruit, citrus, group 10–10, dried pulp at 3 ppm; rapeseed subgroup 20A at 1.0 ppm; rapeseed subgroup 20A, oil at 2.0 ppm; sunflower subgroup 20B at 0.2 ppm; and sunflower subgroup 20B, oil at 0.3 ppm. The ICI Method 81 PRAM 81 is used to measure and evaluate the chemical lambda-cyhalothrin and its epimer in plant matrices. *Contact:* RD.

**Authority:** 21 U.S.C. 346a.

Dated: October 17, 2022.

**Delores Barber,**

*Director, Information Technology and Resources Management Division, Office of Program Support.*

[FR Doc. 2022–22979 Filed 10–21–22; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
Vol. 87, No. 204
Monday, October 24, 2022

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

**[Docket No. USDA–2022–0018]**

### Notice of Request for Approval of a New Information Collection

**AGENCY:** Chief Privacy Office, Information Security Center, Office of the Chief Information Security Officer, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Office of the Chief Information Security Officer—Information Security Center—Chief Privacy Office to request approval for a new information collection for an electronic Request and/or Consent for Privacy Records.

**DATES:** Comments on this notice must be received by December 23, 2022 to be assured of consideration.

**ADDRESSES:** Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office, 1400 Independence Avenue SW, Room 442–W, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to U.S. Department of Agriculture, Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office, 1400 Independence Avenue SW, Room 442–W, Washington, DC 20250–3700.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number, Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

*Docket:* For access to background documents or comments received, go to the U.S. Department of Agriculture, Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office at 1400 Independence Avenue SW, Room 442–W, Washington, DC 20250–3700 between 8 a.m. and 4:30 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Contact Sullie Coleman, Chief Privacy Officer, Information Security Center, Office of the Chief Information Security Officer, U.S. Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250, (202) 604–0467.

**SUPPLEMENTARY INFORMATION:** *Title:* Request and Consent Forms for Privacy Records.

*OMB Number:* 0503–New.

*Expiration Date of Approval:* Three years from approval date.

*Type of Request:* New information collection.

*Abstract:* OMB M–21–04 provides guidance for Federal agencies to modernize the processes by which individuals may request access to, and consent to the disclosure of, records protected under the Privacy Act of 1974. As required by the Creating Advanced Streamlined Electronic Services for Constituents Act of 2019 (''CASES Act''), this guidance outlines the responsibilities of agencies for accepting access and consent forms provided in a digital format from individuals who are properly identity-proofed and authenticated. The request and consent forms, hosted at *www.usda.gov/privacy-policy/privacy-office,* will allow individuals to electronically request privacy records from the USDA. Information collected in this form will allow the USDA to locate any privacy records and submit to the identity-proofed requestor.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 0.8 hours per response.

*Type of Respondents:* Individuals.

*Estimated Number of Respondents:* 300.

*Estimated Number of Responses:* 600.

*Estimated Number of Responses per Respondent:* 2.

*Estimated Total Annual Burden on Respondents:* 100 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to U.S. Department of Agriculture, Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

**Sullie Coleman,**

*Chief Privacy Officer, Office of the Chief Information Security Officer, Information Security Center, Chief Privacy Office.*

[FR Doc. 2022–23072 Filed 10–21–22; 8:45 am]

**BILLING CODE 3410–18–P**

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by November 23, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Rural Business-Cooperative Service**

*Title:* Intermediary Re-lending Program.

*OMB Control Number:* 0570–0021.

*Summary of Collection:* The Secretary of Agriculture is authorized by 7 U.S.C. 1936(b) to make or guarantee loans to eligible entities (Indian tribes, public agencies, cooperatives and nonprofit corporations) so that loans will be reloaned to individuals and entities for the purposes that predominantly serve communities in rural areas and promote community development, establish new businesses, establish and support microlending programs and create or retain employment opportunities. 7 CFR 4284, Subpart D contains regulations for filing applications for loans made by Rural Development (RD) under the Intermediary Relending Program (IRP) to eligible intermediaries and applies to borrowers and other parties involved in making such loans.

*Need and Use of the Information:* The information requested is necessary for RBS to process applications in a responsible manner, make prudent credit and program decisions, and effectively monitor the intermediaries' activities to protect the Government's financial interest and ensure that funds obtained from the Government are used appropriately. Various forms are used to include information to identify the intermediary, describe the intermediary's experience and expertise, describe how the intermediary will operate its revolving loan fund, provide for debt instruments, loan agreements, and security, and other material necessary for prudent credit decisions and reasonable program monitoring.

*Description of Respondents:* Not-for-profit institutions; Business or other for-profit.

*Number of Respondents:* 140.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 11,790.

**Rural Business Cooperative Service**

*Title:* Rural Business Development Grants.

*OMB Control Number:* 0570–0070.

*Summary of Collection:* The Agricultural Act of 2014, Public Law 113–79 (2014 Farm Bill) (7 U.S.C. 1932(c)), authorized the Rural Business Development Grant (RBDG) program to facilitate the development of small and emerging private businesses, industries, and related employment as well as identifying and analyzing business opportunities, establishing business support centers, and providing training, technical assistance, and planning for improving the economy in rural communities. 7 CFR 4280, Subpart E is a Rural Business-Cooperative Service (RBS) regulation which covers the administration of this program, including eligibility requirements and evaluation criteria to make funding selection decisions. The reporting burden to be cleared with this request includes the submission of documentation to support selection priority points such as evidence of experience, commitment by other funding sources, evidence of loans that are needed, commitment by business of jobs created or saved, and evidence that the proposed project is covered by a plan; and reporting requirements after grant approval.

*Need and Use of the Information:* The various forms and narrative requirements contained within this regulation are collected from applicants who are public bodies and private nonprofit organizations, and Indian Tribes. This information is for determining such factors as: (1) eligibility; (2) the specific purposes for which grant funds will be utilized; (3) timeframes or dates by which actions surrounding the use of funds will be accomplished; (4) who will be carrying out the purposes for which the grant is made; (5) project priority; (6) applicants' experience in administering a rural economic development program; (7) employment improvement; and (8) mitigation of economic distress of a community through the creation or salvation of jobs or emergency situations.

*Description of Respondents:* Not-for-profit Institutions; Business or other for-profit.

*Number of Respondents:* 920.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 59,823.

**Levi S. Harrell,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2022–23049 Filed 10–21–22; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

**[Docket No. RUS–22–TELECOM–0054]**

### Notice of New Information Collection

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Utilities Service's (RUS or Agency), an agency within the United States Department of Agriculture, Rural Development, intention to request a new information collection package for the Broadband Technical Assistance Program (BTA Program). The BTA Program provides financial assistance to technical assistance providers and rural communities to promote the expansion of broadband service into unserved rural areas.

**DATES:** Comments on this notice must be received by December 23, 2022 to be assured of consideration.

**FOR FURTHER INFORMATION CONTACT:** Pamela Bennett, Regulations

Management Division, Innovation Center, U.S. Department of Agriculture. Email: *pamela.bennett@usda.gov.* Telephone: (202) 720–9639.

**SUPPLEMENTARY INFORMATION:** The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS will submit to OMB for regular approval.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Business-Cooperative Service, including whether the information will have practical utility; (b) the accuracy of the Rural Business-Cooperative Service's estimate of the burden of the proposed collection of information including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the ''Search'' box, type in the Docket No. RUS–22–TELECOM–0054. A link to the Notice will appear. You may submit a comment here by selecting the ''Comment'' button or you can access the ''Docket'' tab, select the ''Notice,'' and go to the ''Browse & Comment on Documents'' Tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the ''Comment'' button, complete the required information, and select the ''Submit Comment'' button at the bottom. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link at the bottom.

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

*Title:* Broadband Technical Assistance Program.

*OMB Control Number:* 0572–NEW.

*Type of Request:* New information collection.

*Abstract:* The Rural Utilities Service administers the Broadband Technical Assistance Program (BTA Program) as authorized pursuant to the Infrastructure Investment and Jobs Act (Pub. L. 117–58). The purpose of the program is to provide financial assistance to technical assistance providers and rural communities to promote the expansion of broadband service into unserved rural areas. Program funds must be used to support broadband technical assistance activities which include, but are not limited to, project planning and community engagement, operations support, financial sustainability, environmental compliance, construction and engineering, accessing federal resources, and data collection and reporting.

The reporting burden covered by this collection of information consists of forms, documents and written burden to support a request for funding for BTA Program assistance. This information collection will be used to obtain information necessary to evaluate applications to determine the eligibility of the applicant and the project for the program and to qualitatively assess the project's technical and financial merit to determine which projects should be funded.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 1.109 hours per response.

*Respondents:* Respondents for this data my include Tribes and Tribal Entities, state or local governments, a territory or possession of the United States, an institution of higher learning, non-profit entities with 501(c)(3) IRS status, cooperatives or mutual organizations, corporations and limited liability companies or limited liability partnerships.

*Estimated Number of Respondents:* 25.

*Estimated Number of Responses per Respondent:* 18.04.

*Estimated Number of Responses:* 451.

*Estimated Total Annual Burden on Respondents:* 500 hours.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, at (202) 720–9639. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**Andrew Berke,**

*Administrator, Rural Utilities Service.*

[FR Doc. 2022–23014 Filed 10–21–22; 8:45 am]

**BILLING CODE 3410–15–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meetings.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold two (2) meetings on Thursday, November 10, 2022 at 4:00 p.m.–5:00 p.m. Central Time and Tuesday, December 13, 2022 at 4:00 p.m.–5:00 p.m. Central Time. The purpose for the meetings is to discuss the proposal for their project on the effects of the pandemic on education in the state.

**DATES:** The meetings will take place on:

- Thursday, November 10, 2022, from 4:00 p.m.–5:00 p.m. Central Time.

*Online Registration (Audio/Visual):* Join ZoomGov Meeting *https://www.zoomgov.com/j/1605698126?pwd=WCtWNGpOdjByUEx0eFlEY0ZqMWo4QT09.*

*Telephone (Audio Only):* Dial 833 435 1820 USA Toll Free; Access code: 160 569 8126#.

- Tuesday, December 13, 2022, from 4:00 p.m.–5:00 p.m. Central Time.

*Online Registration (Audio/Visual):* Join ZoomGov Meeting *https://www.zoomgov.com/j/1613760014?pwd=dEE0SFRSUGRIN2xaWG94WC9WOWt2UT09.*

*Telephone (Audio Only):* Dial 833 435 1820 USA Toll Free; Access code: 161 376 0014#.

**FOR FURTHER INFORMATION CONTACT:** Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public

through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines and the Commission will not refund any incurred charges.

Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov*. Persons interested in the work of this Committee are advised to go to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or e-mail address.

**Agenda**

I. Welcome and Roll Call
II. Chair's Comments
III. Discuss Project Proposal
IV. Next Steps
V. Public Comment
VI. Adjournment

Dated: October 18, 2022.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2022–22980 Filed 10–21–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

**[Docket No. 221017–0218]**

### Federal Economic Statistics Advisory Committee Meeting

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Bureau of Economic Analysis (BEA) is giving notice of a meeting of the Federal Economic Statistics Advisory Committee (FESAC or the Committee). The Committee advises the Under Secretary for Economic Affairs, the Directors of the Bureau of Economic Analysis and the Census Bureau, and the Commissioner of the U.S. Department of Labor's Bureau of Labor Statistics (BLS) on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. An agenda will be accessible prior to the meeting at *https://apps.bea.gov/fesac/.*

**DATES:** December 9, 2022. The meeting begins at 10 a.m. and adjourns at 3:45 p.m. (ET).

**ADDRESSES:** This meeting will be a hybrid event. Committee members and presenters will have the option to join the meeting in person or via video conference technology. All outside attendees will be invited to attend via video conference technology only. The meeting is open to the public via video conference technology. Contact Gianna Marrone at (301) 278–9282 or *gianna.marrone@bea.gov* by December 2, 2022 to RSVP. The Advisory Committee website will maintain the most current information on the meeting agenda, schedule, and location. These items may be updated without further notice in the **Federal Register**. Information about how to access the meeting and presentations will be posted 24 hours prior to the meeting on *https://apps.bea.gov/fesac/.*

**FOR FURTHER INFORMATION CONTACT:** Gianna Marrone, Program Analyst, U.S. Department of Commerce, Bureau of Economic Analysis, 4600 Silver Hill Road (BE–64), Suitland, MD 20746; phone (301) 278–9282; email *gianna.marrone@bea.gov.*

**SUPPLEMENTARY INFORMATION:** FESAC members are appointed by the Secretary of Commerce. The Committee advises the Under Secretary for Economic Affairs, BEA and Census Bureau Directors, and the Commissioner of the Department of Labor's BLS on statistical methodology and other technical matters related to the collection, tabulation, and analysis of federal economic statistics. The Committee is established in accordance with the Federal Advisory Committee Act (5 U.S.C. app. 2).

The Committee aims to have a balanced representation among its members, considering such factors as geography, age, sex, race, ethnicity, technical expertise, community involvement, and knowledge of programs and/or activities related to FESAC. Individual members are selected based on their expertise in or representation of specific areas as needed by FESAC.

This meeting is open to the public. The meeting is accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Gianna Marrone at *gianna.marrone@bea.gov* by December 2, 2022. Persons with extensive questions or statements must submit them in writing by December 2, 2022, to Gianna Marrone, *gianna.marrone@bea.gov.*

*Authority:* Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App.

Dated: October 13, 2022.

**Sabrina Montes,**

*Designated Federal Officer, Bureau of Economic Analysis.*

[FR Doc. 2022–22981 Filed 10–21–22; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### Bureau of Economic Analysis

**[Docket No. 221017–0219]**

### Federal Economic Statistics Advisory Committee

**AGENCY:** Bureau of Economic Analysis, Department of Commerce.

**ACTION:** Notice of request for nominations.

**SUMMARY:** The Under Secretary for Economic Affairs requests nominations of individuals to the Federal Economic Statistics Advisory Committee (FESAC or the Committee). The Under Secretary for Economic Affairs, in coordination with the Directors of the Bureau of Economic Analysis and the U.S. Census Bureau, as well as the Commissioner of the U.S. Department of Labor's Bureau of Labor Statistics, will consider nominations received in response to this notice, as well as from other sources.

**DATES:** Nominations for the FESAC will be accepted on an ongoing basis and will be considered as and when vacancies arise.

**ADDRESSES:** Please submit nominations by email to *Gianna.marrone@bea.gov* (subject line ''FESAC Nomination'').

**FOR FURTHER INFORMATION CONTACT:** Gianna Marrone, Committee Management Official, Department of Commerce, Bureau of Economic Analysis, telephone 301–278–9282, email: *gianna.marrone@bea.gov.*

**SUPPLEMENTARY INFORMATION:** The Federal Economic Statistics Advisory Committee was established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2). The following provides information about the Committee, membership, and the nomination process.

**Objectives and Scope of FESAC Activities**

The Committee advises the Directors of the Bureau of Economic Analysis (BEA) and the U.S. Census Bureau, as well as the Commissioner of the U.S. Department of Labor's Bureau of Labor Statistics (BLS), on statistical methodology and other technical matters related to the design, collection, tabulation, and analysis of federal economic statistics.

**Description of the FESAC Member Duties**

The Committee functions solely as an advisory committee to the senior officials of BEA, the Census Bureau, and BLS (the agencies). Important aspects of the committee's responsibilities include, but are not limited to:

a. Recommending research to address important technical problems arising in federal economic statistics.

b. Identifying areas in which better coordination of the agencies' activities would be beneficial;

c. Exploring ways to enhance the agencies' economic indicators to make them timelier, more accurate, and more specific to meeting changing demands and future data needs;

d. Improving the means, methods, and techniques to obtain economic information needed to produce current and future economic indicators; and

e. Coordinating, in its identification of agenda items, with other existing academic advisory committees chartered to provide agency-specific advice, for the purpose of avoiding duplication of effort.

The Committee meets once or twice a year, budget permitting. Additional meetings may be held as deemed necessary by the Under Secretary for Economic Affairs or the Designated Federal Official. All Committee meetings are open to the public in accordance with the Federal Advisory Committee Act.

**FESAC Membership**

The Committee will comprise approximately 16 members who serve at the pleasure of the Secretary of Commerce. Members shall be appointed by the Under Secretary for Economic Affairs in consultation with the agencies. Committee members shall be professionals in appropriate disciplines, including economists, statisticians, survey methodologists, computer scientists, data scientists, and behavioral scientists who are experts in their fields, recognized for their scientific, professional, and operational achievements and objectivity. Membership will represent data users with expertise from the public sector, academia, and the private sector. Members will be chosen to achieve a balanced membership that will meet the needs of the agencies.

Members shall serve as Special Government Employees (SGEs) and shall be subject to ethics rules applicable to SGEs.

A FESAC member term is three years.

Members may serve more than one term as described in the FESAC Charter, available at: *https://apps.bea.gov/fesac/.*

**Compensation for Members**

Members of the Committee serve without compensation but may receive reimbursement for Committee-related travel and lodging expenses.

**Solicitation of Nominations**

The Committee is currently filling one or more positions on the FESAC.

The Under Secretary of Economic Affairs, in consultation with the agencies, will consider nominations of all qualified individuals to ensure that the Committee includes the areas of experience noted above. Individuals may nominate themselves or other individuals, and professional associations and organizations may nominate one or more qualified persons for membership on the Committee. Nominations shall state that the nominee is willing to serve as a member and carry out the duties of the Committee. A nomination package should include the following information for each nominee:

1. A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.,* what specific attributes recommend the nominee for service in this capacity), and the nominee's field(s) of experience;

2. a biographical sketch of the nominee;

3. a copy of the nominee's curriculum vitae; and

4. the name, return address, email address, and daytime telephone number at which the nominator can be contacted.

The Committee aims to have a balanced representation among its members, considering such factors as geography, age, sex, race, ethnicity, technical expertise, community involvement, and knowledge of programs and/or activities related to FESAC. Individuals will be selected based on their expertise in or representation of specific areas as needed by FESAC.

All nomination information should be provided in a single, complete package. Interested applicants should send their nomination package to Gianna Marrone, Committee Management Official, at *Gianna.Marrone@bea.gov* (subject line ''FESAC Nomination'').

*Authority:* Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App.

Dated: October 13, 2022.

**Sabrina L. Montes,**

*Bureau of Economic Analysis, Designated Federal Official, Federal Economic Statistics Advisory Committee.*

[FR Doc. 2022–22982 Filed 10–21–22; 8:45 am]

**BILLING CODE 3510–06–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC447]**

### Atlantic Highly Migratory Species; Atlantic Highly Migratory Species Southeast Data, Assessment, and Review Workshops Advisory Panel

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

**ACTION:** Notice; nominations for shark stock assessment advisory panel.

**SUMMARY:** NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Southeast Data, Assessment, and Review (SEDAR) Workshops Advisory Panel, also known as the ''SEDAR Pool.'' The SEDAR Pool is comprised of a group of individuals who may be selected to consider data and advise NMFS regarding the scientific information including, but not limited to, data and models used in stock assessments for oceanic sharks in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Nominations are being sought for 5-year appointments (2023–2028). Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations will be considered for membership on the SEDAR Pool.

**DATES:** Nominations must be received on or before November 23, 2022.

**ADDRESSES:** You may submit nominations and request the SEDAR Pool Statement of Organization, Practices, and Procedures electronically via email to *SEDAR.pool@noaa.gov.*

Additional information on SEDAR and the SEDAR guidelines can be found

at *http://sedarweb.org/.* The terms of reference for the SEDAR Pool, along with a list of current members, can be found at *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/southeast-data-assessment-and-review-and-atlantic-highly.*

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, (301) 425–8503.

**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries (tunas, billfish, swordfish, and sharks) are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635.

## Background

Section 302(g)(2) of the Magnuson-Stevens Act states that each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under the Act. For the purposes of this section, NMFS applies the above provision to Atlantic HMS management (see section 304(g)(1) of the Magnuson-Stevens Act, which provides that the Secretary will prepare FMPs for HMS and consult with advisory panels under section 302(g) for such FMPs). As such, NMFS has established the SEDAR Pool under this section. The SEDAR Pool currently consists of 32 individuals, each of whom may be selected to review data and advise NMFS regarding the scientific information including, but not limited to, data and models used in stock assessments for oceanic sharks in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. While the SEDAR Pool was created specifically for Atlantic oceanic sharks, it may be expanded to include other HMS, as needed.

The primary responsibility of individuals in the SEDAR Pool is to review, at SEDAR workshops, the scientific information including, but not limited to, data and models used in stock assessments that are used to advise NMFS about the conservation and management of Atlantic HMS specifically, but not limited to, Atlantic sharks. Individuals in the SEDAR Pool, if selected for a particular workshop, may participate in the various data, assessment, and review workshops during the SEDAR process of any HMS stock assessment. In order to ensure that the review is unbiased, individuals who participated in a data and/or assessment workshop for a particular stock assessment will not be allowed to serve as SEDAR Pool reviewers for the same stock assessment. However, these individuals may be asked to attend the review workshop to answer specific questions from the reviewers concerning the data and/or assessment workshops. Members of the SEDAR Pool may serve as members of other advisory panels concurrent with, or following, their service on the SEDAR Pool.

## Procedures and Guidelines

### *A. Participants*

The SEDAR Pool is comprised of individuals representing the commercial and recreational fishing communities for Atlantic sharks, the environmental community active in the conservation and management of Atlantic sharks, and the academic community that have relevant expertise either with sharks and/or stock assessment methodologies for marine fish species. In addition, individuals who may not necessarily work directly with sharks, but who are involved in fisheries with similar life history, biology, and fishery issues may be part of the SEDAR Pool. Members of the SEDAR Pool must have demonstrated experience in the fisheries, related industries, research, teaching, writing, conservation, or management of marine organisms. The distribution of representation among the interested parties is not defined or limited.

Additional members of the SEDAR Pool may also include representatives from each of the 5 Atlantic Regional Fishery Management Councils, each of the 18 Atlantic states, both the U.S. Virgin Islands and Puerto Rico, and each of the relevant interstate commissions: the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission.

If NMFS requires additional members to ensure a diverse pool of individuals for data or assessment workshops, NMFS may request individuals to become members of the SEDAR Pool outside of the annual nomination period.

SEDAR Pool members serve at the discretion of the Secretary. Not all members will attend each SEDAR workshop. Rather, NMFS will invite certain members to participate at specific stock assessment workshops dependent on their ability to participate, discuss, and offer scientific input and advice regarding the species being assessed.

NMFS is not obligated to fulfill any requests (*e.g.,* requests for an assessment of a certain species) that may be made by the SEDAR Pool or its individual members. Members of the SEDAR Pool who are invited to attend stock assessment workshops will not be compensated for their services, but may be reimbursed for their travel-related expenses to attend such workshops.

### *B. Nomination Procedures for Appointments to the SEDAR Pool*

Member tenure will be for 5 years. Nominations are sought for terms beginning early in 2023 and expiring in 2028. Nomination packages should include:

1. The name, address, phone number, and email of the applicant or nominee;

2. A description of the applicant's or nominee's interest in Atlantic shark stock assessments or the Atlantic shark fishery;

3. A statement of the applicant's or nominee's background and/or qualifications; and

4. A written commitment that the applicant or nominee shall participate actively and in good faith in the tasks of the SEDAR Pool, as requested.

### *C. Meeting Schedule*

Individual members of the SEDAR Pool meet to participate in stock assessments at the discretion of the Office of Sustainable Fisheries, NMFS. Stock assessment timing, frequency, and relevant species will vary depending on the needs determined by NMFS and SEDAR staff. NMFS began in 2022 and will continue into 2024, a research track assessment to be followed by an operational assessment for the hammerhead shark species in the hammerhead shark management group. Following the hammerhead operational assessment, NMFS anticipates beginning a research track assessment for bull, spinner, tiger, and finetooth sharks. During an assessment year, meetings and meeting logistics will be determined according to the SEDAR Guidelines. All meetings are open for observation by the public.

Dated: October 19, 2022.

**Jennifer M. Wallace,**

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

[FR Doc. 2022–23055 Filed 10–21–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC432]**

### North Pacific Fishery Management Council; Public Meeting; Cancellation

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

**ACTION:** Notice of cancellation of a public meeting.

**SUMMARY:** The North Pacific Fishery Management Council (Council) Bering Sea Fishery Ecosystem Plan Local Knowledge, Traditional Knowledge, and Subsistence Taskforce (LKTKS) meeting was to be held November 1, 2022 through November 2, 2022, from 9 a.m. to 4 p.m., Alaska Time. See **SUPPLEMENTARY INFORMATION.**

**SUPPLEMENTARY INFORMATION:** The meeting notice published on (87 FR 60125). This notice announces that the meeting is cancelled and will be rescheduled and published in the **Federal Register** at a later date.

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

Dated: October 18, 2022.

**Rey Israel Marquez,**

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

[FR Doc. 2022–22991 Filed 10–21–22; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0096, Swap Data Recordkeeping and Reporting Requirements

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed renewal of an information collection by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment. This notice solicits comments on the information collections pertaining to the Commission's swap data recordkeeping and reporting requirements. These rules impose recordkeeping and reporting requirements on the following entities: Swap Dealers (''SDs''), Major Swap Participants (''MSPs''), Swap Execution Facilities (''SEFs''), designated contract markets (''DCMs''), swap data repositories (''SDRs''), derivatives clearing organizations (''DCOs''), and swap counterparties that are neither swap dealers nor major swap participants (''non-SD/MSP counterparties'').

**DATES:** Comments must be submitted on or before December 23, 2022.

**ADDRESSES:** You may submit comments, identified by ''Extension of Information Collection Pertaining to Swap Data Recordkeeping and Reporting Requirements, OMB Control No. 3038–0096,'' by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher J. Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Isabella Bergstein, Attorney Adviser, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 993–1384; email: *ibergstein@cftc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed information collection including each proposed extension of an existing information collection, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of a proposed extension of the currently approved information collection listed below. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

*Title:* Swap Data Recordkeeping and Reporting Requirements (OMB Control No. 3038–0096). This is a request for extension of a currently approved information collection.

*Abstract:* The collection of information is needed to ensure that the CFTC and other regulators have access to swap data as required by the Commodity Exchange Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''). The Dodd-Frank Act directed the CFTC to adopt rules providing for the reporting of data relating to swaps. In 2012, the CFTC adopted Regulation 45, which imposes recordkeeping and reporting requirements relating to pre-enactment and historical swaps.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the CFTC, including whether the information will have a practical use;
- The accuracy of the CFTC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the CFTC to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the CFTC's regulations.[1]

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to

[1] 17 CFR 145.9.

be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

*Burden Statement:* Provisions of CFTC Regulations 45.2, 45.3, 45.4, 45.5, 45.6, 45.10, and 45.14 result in information collection requirements within the meaning of the PRA. With respect to the ongoing reporting and recordkeeping burdens associated with swaps, the CFTC believes that SDs, MSPs, SEFs, DCMs, DCOs, SDRs, and non-SD/MSP counterparties incur an annual time-burden of 1,276,705 hours. This time-burden represents a proportion of the burden respondents incur to operate and maintain their swap data recordkeeping and reporting systems.

*Respondents/Affected Entities:* Swap Dealers, Major Swap Participants, SEFs, DCMs, DCOs, and other counterparties to a swap transaction (*i.e.,* end-user, non-SD/non-MSP counterparties).

*Estimated number of respondents:* 1,732.

*Estimated average burden hours per respondent:* 737 hours.[2]

*Estimated total annual burden hours on respondents:* 1,276,705 hours.

*Frequency of collection:* Ongoing.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 19, 2022.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2022–23026 Filed 10–21–22; 8:45 am]

**BILLING CODE 6351–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Information and Regulatory Affairs (''OIRA''), of the Office of Management and Budget (''OMB''), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before November 23, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0085, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Megan Wallace, Senior Special Counsel, (202) 418–5150, *mwallace@cftc.gov;* Daniel O'Connell, Special Counsel, (202) 418–5583, *doconnell@cftc.gov;* each of the Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

*Title:* Rule 50.50 End-User Notification of Non-Cleared Swap (OMB Control No. 3038–0085). This is a request for an extension of a currently approved information collection.

*Abstract:* CFTC Rule 50.50 specifies the requirements for eligible end-users who may elect the end-user exception from the Commission's swap clearing requirement, as provided under section 2(h)(7) of the Commodity Exchange Act (''CEA''). Rule 50.50 requires the counterparties to report certain information to a swap data repository registered with the Commission, or to the Commission directly, if one or more counterparties elects the end-user exception. The rule establishes a reporting requirement for end-users that is critical to ensuring compliance with the Commission's clearing requirement under section 2(h)(1) of the CEA and is necessary in order for Commission staff to prevent abuse of the end-user exception. In addition, this collection relates to information that the Commission needs to monitor elections of the end-user exception and to assess market risks.

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.[2] On August 18, 2022, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 87 FR 50849 (''60-Day Notice''). The Commission did not receive any comments on the 60-Day Notice.

*Burden Statement:* The Commission is revising its estimate of the burden for

[2] Average burden hours per respondent rounded to the nearest full hour.

[1] 17 CFR 145.9.

[2] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

this collection to reflect the current number of respondents and estimated burden hours. The respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* 1,200.

*Estimated Average Burden Hours per Respondent:* 0.58 hours.

*Estimated Total Annual Burden Hours:* 696 hours.

*Frequency of Collection:* On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 19, 2022.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2022–23048 Filed 10–21–22; 8:45 am]

**BILLING CODE 6351–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Information and Regulatory Affairs (''OIRA'') of the Office of Management and Budget (''OMB'') for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before November 23, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0088, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's Regulations (17 CFR 145.9). The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Dina Moussa, Attorney Advisor, Market Participants Division, Commodity Futures Trading Commission, (202) 418–5696 or *dmoussa@cftc.gov,* and refer to OMB Control No. 3038–0088.

**SUPPLEMENTARY INFORMATION:**

*Title:* Swap Documentation (OMB Control No. 3038–0088).[1] This is a request to revise a currently approved information collection.

*Abstract:* On September 11, 2012, the Commission adopted Commission Regulations 23.500 through 23.505[2] (the ''Regulations'') under Sections 4s(f), (g) and (i)[3] of the Commodity Exchange Act (''CEA''). The Regulations require, among other things, that swap dealers (''SDs'')[4] and major swap participants (''MSPs'')[5] develop and retain written swap trading relationship documentation. They also establish requirements for SDs and MSPs regarding swap confirmation, portfolio reconciliation, and portfolio compression. Under the Regulations, SDs and MSPs are obligated to maintain records of the policies and procedures required by the rules.[6]

Confirmation, portfolio reconciliation, and portfolio compression are important post-trade processing mechanisms for reducing risk and improving operational efficiency. The information collection obligations imposed by the Regulations are necessary to ensure that each SD and MSP maintains the required records of their business activities and an audit trail sufficient to conduct comprehensive and accurate trade reconstruction. The information collections contained in the Regulations are also essential to ensuring that SDs and MSPs document their swaps, reconcile their swap portfolios to resolve discrepancies and disputes, and wholly or partially terminate some or all of their outstanding swaps through regular portfolio compression exercises. These collections of information are mandatory.

In this particular instance, while the information collection has been extended until June 30, 2025, the Commission is revising its aggregate burden by removing the burden hour estimate on cleared swap recordkeeping, as this subcategory was proposed in 2012 but not finalized by the

[1] The collections of information under OMB control numbers 3038–0068, 3038–0083, and 3038–0088 are now consolidated under OMB control number 3038–0088, and OMB control numbers 3038–0068 and 3038–0083 have been withdrawn as of July 5, 2022. Concurrently with this change, the Commission has changed the name associated with OMB control number 3038–0088 to ''Swap Documentation.'' While the collection has been extended until June 30, 2025, this 30-day notice reflects the correction in aggregate burden hours for the consolidated collection, and officially affirms the discontinuance of OMB control numbers 3038–0068 and 3038–0083.

[2] 17 CFR 23.500 through 23.505.

[3] 7 U.S.C. 6s(f), (g) & (i).

[4] For the definition of SD, *see* Section 1a(49) of the CEA and Commission Regulation 1.3; 7 U.S.C. 1a(49) and 17 CFR 1.3.

[5] For the definitions of MSP, *see* Section 1a(33) of the CEA and Commission Regulation 1.3; 7 U.S.C. 1a(33) and 17 CFR 1.3.

[6] SDs and MSPs are required to maintain all records of policies and procedures in accordance with Commission Regulations 23.203 and, by extension, 1.31, including policies, procedures, and models used for eligible master netting agreements and custody agreements that prohibit custodian of margin from re-hypothecating, repledging, reusing, or otherwise transferring the funds held by the custodian. *See* 17 CFR 1.31 and 23.203.

Commission and its burden estimate had been included erroneously under this information collection in previous renewals.[7] Additionally, the total number of respondents (combined SDs and MSPs) is now increased to 108. The overall burden hours for each remaining category within the information collection have increased proportionally, to reflect the increase in the number of respondents.

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.[8] On August 19, 2022, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed renewal, 87 FR 51065 (''60-Day Notice''). The Commission did not receive any comments on the 60-Day Notice.

*Burden Statement:* Based on the proposed revisions to the estimated aggregate burden as discussed above, the respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* 108.

*Estimated Average Burden Hours per Respondent:* 7,324.5.

*Estimated Total Annual Burden Hours:* 791,046.

*Frequency of Collection:* As applicable.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 19, 2022,

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2022–23027 Filed 10–21–22; 8:45 am]

**BILLING CODE 6351–01–P**

[7] *See* 77 FR 55903 (Sept. 11, 2012) (The Commission has considered the commenters' recommendation to delete the clearing record provisions of § 23.504(b)(6)(iii) and (iv) and agrees that there is no need to include in the trading documentation a record of the names of the clearing members for the SD, MSP, or counterparty. Once a swap is accepted for clearing, the identity of a counterparty's clearing member is no longer relevant and requiring such a record has the possibility to undermine the anonymity of central clearing. Therefore, those provisions have been deleted from the final rule. Similarly, § 23.504(b)(6)(i) and (ii) have been removed because those records will be captured under the SD and MSP recordkeeping requirement, § 23.201(a)(3), and the Commission believes those records are sufficient.).

[8] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (''PRA''), this notice announces that the Information Collection Request (''ICR'') abstracted below has been forwarded to the Office of Information and Regulatory Affairs (''OIRA''), of the Office of Management and Budget (''OMB''), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before November 23, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0102, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Megan Wallace, Senior Special Counsel, (202) 418–5150, *mwallace@cftc.gov;* Daniel O'Connell, Special Counsel, (202) 418–5583, *doconnell@cftc.gov;* each of the Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

*Title:* Clearing Exemption for Certain Swaps Entered into by Cooperatives (OMB Control No. 3038–0102). This is a request for an extension of a currently approved information collection.

*Abstract:* Section 2(h)(1)(A) of the Commodity Exchange Act (''CEA'') requires certain entities to submit swaps for clearing if they are required to be cleared by the Commission. Commission regulation 50.51 permits certain cooperatives to elect not to clear certain swaps that otherwise would be required to be cleared, provided that they meet certain conditions. The rule establishes a reporting requirement for cooperatives that is critical to ensuring compliance with the Commission's clearing requirement under section 2(h)(1) of the CEA and is necessary in order for Commission staff to prevent abuse of the cooperative exemption. In addition, this collection relates to information that the Commission needs to monitor elections of the cooperative exemption and to assess market risks.

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

[1] 17 CFR 145.9.

control number.[2] On August 18, 2022, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 87 FR 50850 (''60-Day Notice''). The Commission did not receive any comments on the 60-Day Notice.

*Burden Statement:* The Commission anticipates that there will continue to be approximately 25 eligible respondents and the hourly burden will remain the same. the burden for this collection to reflect the current number of respondents and estimated burden hours. The respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* 25.

*Estimated Average Burden Hours per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 25 hours.

*Frequency of Collection:* On occasion; annually.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 19, 2022.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2022–23047 Filed 10–21–22; 8:45 am]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2022–SCC–0104]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Generic Clearance for Federal Student Aid Customer Satisfaction Surveys and Focus Groups Master Plan

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before November 23, 2022.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0104. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Generic Clearance for Federal Student Aid Customer Satisfaction Surveys and Focus Groups Master Plan.

*OMB Control Number:* 1845–0045.

*Type of Review:* An extension without change of a currently approved collection.

*Respondents/Affected Public:* An extension without change of a currently approved collection.

*Total Estimated Number of Annual Responses:* 8,050,000.

*Total Estimated Number of Annual Burden Hours:* 400,000.

*Abstract:* The Higher Education Amendments of 1998 established Federal Student Aid (FSA) as the first Performance-Based Organization (PBO). One purpose of the PBO is to improve service to student and other participants in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended, including making those programs more understandable to students and their parents. To do that, FSA has committed to ensuring that all people receive service that matches or exceeds the best service available in the private sector. The legislation's requires establish an on-going need for FSA to be engaged in an interactive process of collecting information and using it to improve program services and processes. The use of customer surveys and focus groups allows FSA to gather that information from the affected parties in a timely manner so as to improve communications with our product users.

Dated: October 19, 2022.

**Kun Mullan,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2022–23064 Filed 10–21–22; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Third-Party Access to the Department's Information Technology Systems and Notice of Criminal Penalties for Misuse of Access Devices; Correction

**AGENCY:** Office of Federal Student Aid, Department of Education.

**ACTION:** Notice; correction.

**SUMMARY:** On September 10, 2021, the Department of Education (Department) published in the **Federal Register** a notice announcing Third-Party Access to the Department's Information Technology Systems and Notice of Criminal Penalties for Misuse of Access

[2] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

Devices. This notice clarifies language in that notice that describes the revocation of access if a user has a Title IV loan that goes into default. All other information in the September 10, 2021, **Federal Register** notice, remains the same.

**DATES:** This correction is applicable on October 24, 2022.

**FOR FURTHER INFORMATION CONTACT:** Michael Ruggless, Federal Student Aid, 830 First Street NE, Union Center Plaza, Room 114B4, Washington, DC 20202–5345. Telephone: (202) 377–4098. Email: *Michael.Ruggless@ed.gov.*

Tamy Abernathy, Office of Postsecondary Education, 400 Maryland Avenue SW, 2C–129, Washington, DC 20202. Telephone: (202) 453–5970. Email: *Tamy.Abernathy@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:** On September 10, 2021, the Department published a notice in the **Federal Register** (86 FR 50707) announcing Third-Party Access to the Department's Information Technology Systems and Notice of Criminal Penalties for Misuse of Access Devices (2021 Notice). The 2021 Notice provided a list of what it termed ''Rules of Behavior'' that included in paragraph (m) the revocation of access if a user has a Title IV loan that goes into default. This notice clarifies the language in paragraph (m). All other information in the 2021 Notice remains the same.

**Corrections**

In FR Doc 2021–19536 appearing on page 50707–50709 in the **Federal Register** of September 10, 2021 (86 FR 50707), the following corrections are made:

1. On page 50709, in the first column, the paragraph (m) under the heading ''Code of Conduct'' is revised to read as follows:

If you have Title IV loans, they must be in good standing. If you have a loan that goes into default, your access to the Department's information systems to administer the Title IV Programs under the HEA will be revoked. This means your access to conduct business functions within the Department's IT systems will be revoked. This includes, but not limited to, access to: Common Origination and Disbursement (COD), Financial Aid Administrator (FAA) Access to Central Processing System (CPS) Online, and the National Student Loan Data System (NSLDS®) will be revoked. Access to manage and view your own Title IV loans and financial aid history through the Department's information systems and/or your federal loan servicer as an aid recipient or borrower will not be revoked.

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

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

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

*Program Authority:* 20 U.S.C 1001; 20 U.S.C. 1018; 20 U.S.C. 1092b; and 20 U.S.C. 1097.

**Richard Cordray,**

*Chief Operating Officer, Federal Student Aid.*

[FR Doc. 2022–23067 Filed 10–21–22; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Notice of Availability of Draft Guidance on Hydrogen and Fuel Cell Program: Guidance for the Clean Hydrogen Production Qualifications; Extension of Comment Period

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

**ACTION:** Notice of availability of draft guidance; reopening of public comment period.

**SUMMARY:** On September 28, 2022, the U.S. Department of Energy (DOE) published a notice of availability (NOA) on its Clean Hydrogen Production Standard (CHPS) Draft Guidance. The NOA provided an opportunity for submitting written comments on the draft guidance by October 20, 2022. DOE received requests to extend the comment period for an additional 60–90 days. DOE has reviewed these requests and is reopening the public comment period until November 14, 2022.

**DATES:** The comment period for the NOA published on September 28, 2022 (87 FR 58776) is reopened. Comments regarding this draft guidance must be received on or before November 14, 2022.

**ADDRESSES:** Comments on this draft guidance document must be provided in writing. Interested parties are to submit comments electronically to *cleanh2standard@ee.doe.gov.* Email attachments can be provided as a Microsoft Word (.docx) file or Adobe PDF (.pdf). The complete draft guidance document is located at *https://www.hydrogen.energy.gov/pdfs/clean-hydrogen-production-standard.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Karen Dandridge at *cleanh2standard@ee.doe.gov,* (202) 586–3388.

**SUPPLEMENTARY INFORMATION:** On September 28, 2022, DOE published a NOA and requested comment on its Clean Hydrogen Production Standard (CHPS) Draft Guidance. (87 FR 58776). The NOA contained the initial proposal for the CHPS and established a target for the lifecycle (*i.e.,* well-to-gate) emissions intensity of hydrogen production, based on the Infrastructure Investment and Jobs Act (IIJA) definition of the term ''clean hydrogen'' and other factors set forth in section 40315(b) of the IIJA.

DOE has received several requests to extend the public comment period for 60 and 90 days to help investigate the request and respond appropriately with considered comments given the importance of the standard and the amount of detailed information requested.

DOE has determined that reopening the public comment period for 25 days is appropriate to enable submission of robust information that can inform DOE's programs. Thus, DOE is reopening the comment period through November 14, 2022.

*Signing Authority:* This document of the Department of Energy was signed on October 17, 2022, by Dr. Geraldine Richmond, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purpose only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register

Liaison Office has been authorized to sign and submit the document in the 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 October 19, 2022.

**Treena V. Garrett,**

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

[FR Doc. 2022–23041 Filed 10–21–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### U.S. Energy Information Administration

### Agency Information Collection Extension

**AGENCY:** U.S. Energy Information Administration (EIA), Department of Energy.

**ACTION:** Notice.

**SUMMARY:** EIA submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection requests a three-year extension with changes to its Form EIA–846, ''*Manufacturing Energy Consumption Survey*'' (MECS), OMB Control Number 1905–0169. The proposed collection will collect data from the U.S. manufacturing sector on energy consumption basic energy consumption and expenditures, shipments of energy offsite, end use consumption, building characteristics, participation in energy management programs, technologies, and fuel switching capacity.

**DATES:** Comments regarding this proposed information collection must be received no later than November 23, 2022. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** If you need additional information, contact Thomas Lorenz, U.S. Energy Information Administration, telephone (202) 586–3442, or by email at *Thomas.Lorenz@eia.gov.* The forms and instructions are available on EIA's website at *www.eia.gov/survey/.*

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

(1) *OMB No.* 1905–0169;

(2) *Information Collection Request Title:* Manufacturing Energy Consumption Survey;

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:* Form EIA–846 is a self-administered sample survey designed to collect energy consumption and expenditures data from establishments in the manufacturing sector; *i.e.,* North American Industry Classification System (NAICS) codes 31–33. The previous MECS required respondents to complete multiple collection forms depending on an establishment's primary business activity classification under NAICS. The increased use of technology by means of an internet data collection system has allowed the MECS to eliminate the need to have multiple forms.

*(4a) Proposed Changes to Information Collection:* EIA proposes adding a ''Yes/No'' follow up question to the *Electricity: Total Purchased* section of Form EIA–846. The electricity purchased questions on Form EIA–846 request information about the quantity and expenditure of an establishment's purchased energy, in this case, electricity. The follow up question EIA proposes to Form EIA–846 would identify those geographical areas where multiple establishments may be purchasing and using electricity made from renewable sources, such as solar, wind, geothermal, and hydropower. The purpose of this question is to better understand the technology, equipment, and infrastructure that may be shared among manufacturing establishments. This change is consistent with the Bipartisan Infrastructure Law (Infrastructure Investment and Jobs Act);

*(5) Annual Estimated Number of Respondents:* 15,000;

*(6) Annual Estimated Number of Total Responses:* 3,750;

*(7) Annual Estimated Number of Burden Hours:* 34,565;

*(8) Annual Estimated Reporting and Recordkeeping Cost Burden:* The cost of the burden hours is estimated to be $2,882,030 (34,565 burden hours times $83.38 per hour). EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours.

*Statutory Authority:* 15 U.S.C. 772(b), 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on October 19, 2022.

**Samson A. Adeshiyan,**

*Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.*

[FR Doc. 2022–23077 Filed 10–21–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC22–78–000.

*Applicants:* Digihost International Inc., Fortistar North Tonawanda LLC.

*Description:* Digihost International Inc., et al. submit Response to FERC's September 27, 2022 Deficiency Letter.

*Filed Date:* 10/6/22.

*Accession Number:* 20221006–5101.

*Comment Date:* 5 p.m. ET 10/27/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

*Docket Numbers:* EL23–3–000; QF01–41–002.

*Applicants:* Baytown Energy Center, L.P., Baytown Energy Center, LLC.

*Description:* Baytown Energy Center, LLC submits Petition for Temporary Waiver of Efficiency Standard for Qualifying Cogeneration Facility.

*Filed Date:* 10/12/22.

*Accession Number:* 20221012–5187.

*Comment Date:* 5 p.m. ET 11/2/22.

*Docket Numbers:* EL23–4–000.

*Applicants:* Belmont Municipal Light Department, et al. v. Constellation Mystic Power, LLC, and ISO New England, Inc.

*Description:* Complaint of Belmont Municipal Light Department, et al. v. Constellation Mystic Power, LLC, and ISO New England, Inc.

*Filed Date:* 10/17/22.

*Accession Number:* 20221017–5149.

*Comment Date:* 5 p.m. ET 11/16/22.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER21–2968–001.

*Applicants:* Upper Michigan Energy Resources Corporation.

*Description:* Midcontinent Independent System Operator, Inc. submits tariff filing per 35.19a(b): Refund Report_Upper Michigan Energy Resources Corporation to be effective N/A.

*Filed Date:* 10/18/22.

*Accession Number:* 20221018–5088.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER22–2604–001.
*Applicants:* Lucky Corridor, LLC.
*Description:* Compliance filing: Compliance Filing to be effective 10/5/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5102.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER22–2662–001.
*Applicants:* Aron Energy Prepay 14 LLC.
*Description:* Tariff Amendment: Response to Deficiency Letter to be effective 10/15/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5080.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER22–2663–001.
*Applicants:* Aron Energy Prepay 15 LLC.
*Description:* Tariff Amendment: Response to Deficiency Letter to be effective 10/15/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5082.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER22–2664–001.
*Applicants:* Aron Energy Prepay 16 LLC.
*Description:* Tariff Amendment: Response to Deficiency Letter to be effective 10/15/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5084.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER23–118–000.
*Applicants:* American Electric Power Service Corporation.
*Description:* American Electric Power Service Corporation submits Notice of Termination of Rolling Hills Generating, L.L.C. Interconnection and Operation Agreement.
*Filed Date:* 10/14/22.
*Accession Number:* 20221014–5255.
*Comment Date:* 5 p.m. ET 11/4/22.
*Docket Numbers:* ER23–119–000.
*Applicants:* Solar Star California XLI, LLC.
*Description:* § 205(d) Rate Filing: COC filing to be effective 10/19/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5057.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER23–120–000.
*Applicants:* Golden Fields Solar I, LLC.
*Description:* § 205(d) Rate Filing: COC filing to be effective 10/19/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5060.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER23–121–000.
*Applicants:* Midcontinent Independent System Operator, Inc., Van Ness Feldman LLP.
*Description:* § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 2022–10–18_MRES tariff revisions to Schedules 7, 8, 9 to be effective 1/1/2023.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5089.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER23–122–000.
*Applicants:* Florida Power & Light Company.
*Description:* Tariff Amendment: FPL Notice of Cancellation of Attachment K–2 of the FPL OATT to be effective 1/1/2023.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5101.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER23–123–000.
*Applicants:* AEP Texas Inc.
*Description:* § 205(d) Rate Filing: AEPTX-Big Country EC-Golden Spread EC (Wahpekute) FDA to be effective 10/3/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5114.
*Comment Date:* 5 p.m. ET 11/8/22.
*Docket Numbers:* ER23–124–000.
*Applicants:* AEP Texas Inc.
*Description:* § 205(d) Rate Filing: AEPTX–BNB Tennyson Solar Generation Interconnection Agreement to be effective 10/3/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5119.
*Comment Date:* 5 p.m. ET 11/8/22.

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 or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 18, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–23038 Filed 10–21–22; 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:* RP23–32–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 10.18.22 Negotiated Rates—Citadel Energy Marketing LLC R–7705–11 to be effective 11/1/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5020.
*Comment Date:* 5 p.m. ET 10/31/22.
*Docket Numbers:* RP23–33–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 10.18.22 Negotiated Rates—Citadel Energy Marketing LLC R–7705–12 to be effective 11/1/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5024.
*Comment Date:* 5 p.m. ET 10/31/22
*Docket Numbers:* RP23–34–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 10.18.22 Negotiated Rates—Citadel Energy Marketing LLC R–7705–13 to be effective 11/1/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5020.
*Comment Date:* 5 p.m. ET 10/31/22.
*Docket Numbers:* RP23–35–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 10.18.22 Negotiated Rates—Citadel Energy Marketing LLC R–7705–14 to be effective 11/1/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5026.
*Comment Date:* 5 p.m. ET 10/31/22.
*Docket Numbers:* RP23–36–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 10.18.22 Negotiated Rates—Emera Energy Services, Inc. R–2715–50 to be effective 11/1/2022.
*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5030.
*Comment Date:* 5 p.m. ET 10/31/22.
*Docket Numbers:* RP23–37–000.
*Applicants:* Iroquois Gas Transmission System, L.P.
*Description:* § 4(d) Rate Filing: 10.18.22 Negotiated Rates—Emera Energy Services, Inc. R–2715–51 to be effective 11/1/2022.

*Filed Date:* 10/18/22.
*Accession Number:* 20221018–5032.
*Comment Date:* 5 p.m. ET 10/31/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 18, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–23039 Filed 10–21–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER23–113–000]**

### AL Solar D, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of AL Solar D, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 7, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at*FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: October 18, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–23037 Filed 10–21–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 14513–003]**

### Idaho Irrigation District, New Sweden Irrigation District; Notice of Waiver Period for Water Quality Certification Application

On October 11, 2022, Idaho Irrigation District and New Sweden Irrigation District submitted to the Federal Energy Regulatory Commission a copy of their application for a Clean Water Act section 401(a)(1) water quality certification filed with the Idaho Department of Environmental Quality (Idaho DEQ), in conjunction with the above captioned project. Pursuant to 40 CFR 121.6, we hereby notify the Idaho DEQ of the following:

*Date of Receipt of the Certification Request:* October 8, 2022.

*Reasonable Period of Time to Act on the Certification Request:* One year.

*Date Waiver Occurs for Failure to Act:* October 8, 2023.

If the Idaho DEQ fails or refuses to act on the water quality certification request by the above waiver date, then the agency's certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: October 18, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–23040 Filed 10–21–22; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–10304–01–OA]**

### Local Government Advisory Committee (LGAC) Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notification of public meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act (FACA), EPA hereby provides notice of a meeting for the Local Government Advisory Committee (LGAC) and the Small Communities Advisory Subcommittee (SCAS) on the date and time described below. This meeting will be open to the public. For information on public attendance and participation, please see the registration information under **SUPPLEMENTARY INFORMATION**.

**DATES:** The LGAC will meet virtually November 18th, 2022, from 2:00 p.m. through 4:00 p.m. Eastern Standard Time.

**FOR FURTHER INFORMATION CONTACT:** Paige Lieberman, Designated Federal Officer (DFO), at *LGAC@epa.gov* or 202–564–9957.

*Information on Accessibility:* For information on access or services for individuals requiring accessibility accommodations, please contact Paige Lieberman by email at *LGAC@epa.gov.* To request accommodation, please do so five (5) business days prior to the

meeting, to give EPA as much time as possible to process your request.

**SUPPLEMENTARY INFORMATION:** The LGAC has been deliberating on the following issues and will discuss and vote on draft recommendations for each at this meeting.

1. As EPA works to support the water workforce, how can we ensure that we are making effective and efficient investments. The EPA asks the LGAC to advise on the following ways to support:

—Training and apprenticeship opportunities
—New and innovative ways to recruit and retain employees
—Targeted resources for utilities and municipalities
—Ways to streamline certification requirements
—New or adapted partnerships with states, municipalities, tribes, territories, industry, nonprofit organizations and/or academia

2. The Inflation Reduction Act (IRA) allocates significant funding for greenhouse gas reduction programs, which will help states, tribes, territories, and local governments take action against climate change through grant programs, technical assistance, code development, and more. At the same time, it allocates $1 billion to cover the incremental costs of replacing dirty medium and heavy-duty vehicles zero-emitting vehicles. What information and resources do local governments need to pursue such initiatives, specifically those that reduce greenhouse gas emissions through the decarbonization of municipal fleets and buildings? As EPA implements this new program, how can it ensure that local communities and their concerns are supported?

Additionally, the LGAC will hear recommendations developed by its Small Communities Advisory Subcommittee (SCAS) on the following topic:

How can EPA better support small communities as it implements the Bipartisan Infrastructure Law. Specifically, how can EPA:

—Support clean and sustainable air, water, and land priorities for small and rural communities
—Support capacity needs/advancement for small and rural communities
—Ensure long-lasting communication between EPA and local officials from small and rural communities
—Ensure small communities are positioned to benefit from this generational investment in environmental infrastructure

All interested persons are invited to attend and participate. The LGAC will hear comments from the public from 3:40–3:50 p.m. (EST). Individuals or organizations wishing to address the Committee or Subcommittee will be allowed a maximum of five (5) minutes to present their point of view. Also, written comments should be submitted electronically to *LGAC@epa.gov* for the LGAC and SCAS. Please contact the DFO at the email listed under **FOR FURTHER INFORMATION CONTACT** to schedule a time on the agenda by October 12, 2021. Time will be allotted on a first-come first-served basis, and the total period for comments may be extended if the number of requests for appearances requires it.

*Registration:* The meeting will be held virtually through an online audio and video platform. Members of the public who wish to participate should register by contacting the Designated Federal Officer (DFO) at *LGAC@epa.gov* by November 17, 2022. The agenda and other supportive meeting materials will be available online at *https://www.epa.gov/ocir/local-government-advisory-committee-lgac* and will be emailed to all registered. In the event of cancellation for unforeseen circumstances, please contact the DFO or check the website above for reschedule information.

**Julian Bowles,**

*Director, State and Local Relations, Office of Congressional and Intergovernmental Relations.*

[FR Doc. 2022–23029 Filed 10–21–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–10303–01–OLEM]**

## Forty-Second Update of the Federal Agency Hazardous Waste Compliance Docket

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. This notice identifies the Federal facilities not previously listed on the Docket and identifies Federal facilities reported to EPA since the last update on April 26, 2021. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list and a section of Federal facilities that are to be deleted from the Docket. Thus, the revisions in this update include one addition, one deletion, and zero corrections to the Docket since the previous update.

**DATES:** This list is current as of October 5, 2022.

**FOR FURTHER INFORMATION CONTACT:** Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/federal-agency-hazardous-waste-compliance-docket* by clicking on the link for *Cleanups at Federal Facilities* or by contacting Jonathan Tso (*Tso.Jonathan@epa.gov*), Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office. Additional information on the Docket and a complete list of Docket sites can be obtained at: *https://www.epa.gov/fedfac/federal-agency-hazardous-waste-compliance-docket-1.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents



### 1.0 Introduction

Section 120(c) of CERCLA, 42 U.S.C. 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA section 3010 requires waste

generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA section 101. Additionally, CERCLA section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a threat to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public. Previous Docket updates are available at *https://www.epa.gov/fedfac/previous-federal-agency-hazardous-waste-compliance-docket-updates.*

This notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/docket-reference-manual-federal-agency-hazardous-waste-compliance-docket-interim-final* or obtained by calling the Regional Docket Coordinators listed below. This notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfacts/federal-facility-cleanup-sites-searchable-list* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

## 2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

- *US EPA Region 1.* Alyssa Sierra (HBS), 5 Post Office Square, Suite 100, Mail Code: 01–5, Boston MA 02109–3912, (617) 918–1603.
- *US EPA Region 2.* Cathy Moyik (ERRD), 290 Broadway, New York, NY 10007–1866, (212) 637–4339.
- *US EPA Region 3.* Joseph Vitello (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.
- *US EPA Region 3.* Dawn Fulsher (3HS12), 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3270.
- *US EPA Region 4.* Alayna Famble (9T25), 61 Forsyth St. SW, Atlanta, GA 30303, (404) 564–8444.
- *US EPA Region 5.* David Brauner (SR–6J), 77 W Jackson Blvd., Chicago, IL 60604, (312) 886–1526.
- *US EPA Region 6.* Philip Ofosu (6SF–RA), 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.
- *US EPA Region 7.* Todd H Davis (SUPRERSB), 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7749.
- *US EPA Region 8.* Ryan Dunham (EPR–F), 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.
- *US EPA Region 9.* Leslie Ramirez (SFD–6–1), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.
- *US EPA Region 10.* Ken Marcy, Oregon Operations Office, 805 SW Broadway, Suite 500, Portland, OR 97205, (503) 326–3269.

## 3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions and corrections to the list of Docket facilities since the previous Docket update.

### *3.1 Additions*

These Federal facilities are being added primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA sections 3005, 3010, or 3016 or CERCLA section 103). CERCLA section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL. This notice includes one addition.

### *3.2 Deletions*

There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: a facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (*e.g.,* 40 CFR 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (*i.e.,* redundant listings); or when multiple facilities are combined under one listing. (*See* Docket Codes (*Reasons for Deletion of Facilities*) for a more refined list of the criteria EPA uses for deleting sites from the Docket.) Facilities being deleted no longer will be subject to the requirements of CERCLA section 120(d). This notice includes one deletion.

### *3.3 Corrections*

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Superfund Enterprise Management System (SEMS) and the Docket. For the Federal facility for which a correction is entered, the original entry is as it appeared in

[1] See Section 3.2 for the criteria for being deleted from the Docket.

previous Docket updates. The corrected update is shown directly below, for easy comparison. This notice includes zero corrections.

### 4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published in this notice, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the WebEOC, the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Act Information System (RCRAInfo), and SEMS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list and contacts the other Federal Agency (OFA) with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to contact the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

### 5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have not, more than once per calendar year, generated more than 1,000 kg of hazardous waste in any single month; (3) Federal facilities that are very small quantity generators (VSQGs) that have never generated more than 100 kg of hazardous waste in any month; (4) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA section 3010; and (5) Federal facilities that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under section 103(a) of CERCLA, should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/policy-listing-mixed-ownership-mine-or-mill-sites-created-result-general-mining-law-1872.* The policy of not including these facilities may change; facilities now omitted may be added at some point if EPA determines that they should be included.

### 6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

### 7.0 Information Contained on Docket Listing

The information is provided in three tables. The first table is a list of additional Federal facilities that are being added to the Docket. The second table is a list of Federal facilities that are being deleted from the Docket. The third table is for corrections.

The Federal facilities listed in each table are organized by the date reported. Under each heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2]

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: for example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan at 40 CFR 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with section 103(a) of CERCLA, *i.e.,* reportable quantities codified at 40 CFR 302; (2) a report submitted to EPA in accordance with section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with section 105(d) of CERCLA; (7) a report submitted in accordance with section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/fedfacts* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of the date of this notice, the total number of Federal facilities that appear on the Docket is 2,391.

**Gregory Gervais,**

*Director, Federal Facilities Restoration and Reuse Office, Office of Land and Emergency Management.*

#### *7.1 Docket Codes/Reasons for Deletion of Facilities*

- *Code 1.* Small-Quantity Generator and Very Small Quantity Generator. Show citation box.
- *Code 2.* Never Federally Owned and/or Operated.
- *Code 3.* Formerly Federally Owned and/or Operated but not at time of listing.
- *Code 4.* No Hazardous Waste Generated.
- *Code 5.* (This code is no longer used.)
- *Code 6.* Redundant Listing/Site on Facility.
- *Code 7.* Combining Sites Into One Facility/Entries Combined.

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

• *Code 8.* Does Not Fit Facility Definition.

*7.2 Docket Codes/Reasons for Addition of Facilities*

• *Code 15.* Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.
• *Code 16.* One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.
• *Code 16A.* NPL site that is part of a Facility already listed on the Docket.
• *Code 17.* New Information Obtained Showing That Facility Should Be Included.
• *Code 18.* Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.
• *Code 19.* Sites Were Combined Into One Facility.
• *Code 19A.* New Currently Federally Owned and/or Operated Facility Site.

*7.3 Docket Codes/Types of Corrections of Information About Facilities*

• *Code 20.* Reporting Provisions Change.
• *Code 20A.* Typo Correction/Name Change/Address Change.
• *Code 21.* Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)
• *Code 22.* Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal Agency submits proof of previously performed PA, which is subject to approval by EPA.)
• *Code 24.* Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #42—ADDITIONS

| Facility name | Address | City | State | Zip code | Agency | Reporting mechanism | Code | Date |
|---|---|---|---|---|---|---|---|---|
| COE CIVIL BIG CLIFF RESERVOIR. | TOWNSHIP 10 SOUTH, RANGE 4 EAST, SECTION 1. | DETROIT ..... | OR | 23551 | CORPS OF ENGINEER, CIVIL. | CERCLA 103. | 17 | UPDATE #42. |

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #42—DELETIONS

| Facility name | Address | City | State | Zip code | Agency | Reporting mechanism | Code | Date |
|---|---|---|---|---|---|---|---|---|
| NPS—SPRING HILL RANCH HOUSE. | 2480B KANSAS HWY 177 ..... | STRONG CITY | KS | 66869 | INTERIOR ..... | RCRA 3010 | 1 | UPDATE #42. |

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #42—CORRECTIONS

| Facility name | Address | City | State | Zip code | Agency | Reporting mechanism | Code | Date |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

[FR Doc. 2022–22994 Filed 10–21–22; 8:45 am]
BILLING CODE 6560–50–P

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT:** 87 FR 61597.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** Tuesday, October 18, 2022 at 10:00 a.m. and its continuation at the conclusion of the open meeting on october 20, 2022.

**CHANGES IN THE MEETING:** Financial or commercial information obtained from any person which is privileged or confidential.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

**CONTACT FOR MORE INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

*Authority:* Government in the Sunshine Act, 5 U.S.C. 552b.

**Vicktoria J. Allen,**

*Acting Deputy Secretary of the Commission.*

[FR Doc. 2022–23225 Filed 10–20–22; 4:15 pm]
BILLING CODE 6715–01–P

## FEDERAL RESERVE SYSTEM

**[Docket No. OP–1613]**

### New Message Format for the Fedwire® Funds Service

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is announcing that the Federal Reserve Banks (Reserve Banks) will adopt the ISO® 20022 message format for the Fedwire® Funds Service on a single day, March 10, 2025. The Board is also announcing a revised testing strategy, backout strategy, and other details concerning the implementation of the ISO 20022 message format for the Fedwire Funds Service.

**DATES:** *Implementation date:* March 10, 2025.

**FOR FURTHER INFORMATION CONTACT:** Cody Gaffney, Attorney (202–452–2674), Legal Division; Amber Latner, Lead Financial Institution Policy Analyst (202–973–6965), Division of Reserve Bank Operations and Payment Systems.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Fedwire Funds Service is a real-time gross settlement system owned and operated by the Reserve Banks that enables participants to make immediately final payments using either their balances held at the Reserve Banks or intraday credit provided by the Reserve Banks. The Fedwire Funds Service and the CHIPS® funds-transfer system, which is owned and operated by The Clearing House Payments Company L.L.C. (TCH), are the main large-value payment systems in the United States.[1]

[1] In 2021, the Fedwire Funds Service processed approximately 204 million payments with a total value of approximately $992 trillion. *See*

Continued

At present, the Fedwire Funds Service uses a proprietary message format that supports multiple types of communications, including (i) ''value'' messages that order the movement of funds, (ii) ''nonvalue'' messages that do not result in the movement of funds but rather communicate information or requests to other Fedwire Funds Service users, and (iii) other messages that enable Fedwire Funds Service users to request account balance information and the processing status of payment orders.[2] The present Fedwire Funds Service message format can be mapped to—and is interoperable with—the CHIPS message format and the message type format of the SWIFT messaging network.

In 2004, the International Organization for Standardization (ISO)—an independent, non-governmental organization currently comprising 167 national standards bodies—published the ISO 20022 standard, which includes a suite of message format standards for the financial industry, including messages for payments, securities, trade services, debit and credit cards, and foreign exchange. ISO 20022 messages use extensible markup language (XML) syntax, have a common data dictionary that can support end-to-end payment message flow, and include structured data elements that provide for potentially richer payment message data than the current Fedwire Funds Service message format.

On July 5, 2018, the Board published a notice and request for comment (2018 Notice) on a proposal to adopt the ISO 20022 message format for the Fedwire Funds Service.[3] The 2018 Notice more fully described the current Fedwire Funds Service message format and the ISO 20022 message format, including tables that compared the two formats with respect to various message elements. In addition, the 2018 Notice described payments industry efforts related to ISO 20022, including outreach by the Reserve Banks and coordination efforts between the Reserve Banks, TCH, and other stakeholders. The 2018 Notice further described the potential benefits of adopting the ISO 20022 message format for the Fedwire Funds Service, including increased efficiency due to greater interoperability among global payment systems and types of payments, richer data that could improve anti-money laundering and sanctions screening, and broader adoption of extended remittance information.[4] The 2018 Notice included a request for comment on the potential benefits and drawbacks of adopting the ISO 20022 standard.

## II. Summary of 2021 Notice

After considering public comments received in connection with the 2018 Notice, on October 6, 2021, the Board published a notice and request for comment (2021 Notice) that announced that the Reserve Banks will adopt the ISO 20022 standard for the Fedwire Funds Service.[5] The Board noted that migrating the Fedwire Funds Service to the ISO 20022 message format will provide a variety of policy and operational benefits and was supported by commenters.

At the same time, the Board in the 2021 Notice proposed that the Reserve Banks adopt the ISO 20022 message format on a single day, rather than in three separate phases, as previously proposed.[6] The 2021 Notice stated that as of the implementation date (*i.e.,* the date on which the Fedwire Funds Service is scheduled to migrate to ISO 20022), all Fedwire Funds Service users would be required to be able to send and receive fully enhanced ISO 20022 messages and the current proprietary message format for the Fedwire Funds Service would no longer be supported. The implementation date would be targeted for, and would be no earlier than, November 2023. The Board noted that the Federal Reserve intends to align the timing of ISO 20022 implementation for the Fedwire Funds Service with that of CHIPS to the extent possible to maximize benefits for Fedwire Funds Service users that also use CHIPS.[7]

The Board in the 2021 Notice also explained that the Reserve Banks are using SWIFT's MyStandards application to store and share documentation related to the ISO 20022 implementation with authorized Fedwire Funds Service users.[8] The Board stated that the Reserve Banks will publish the final message format documents for ISO 20022 messages after the Board announces a final implementation strategy.

The 2021 Notice also outlined the Board's proposed strategy for the testing of ISO 20022 messages prior to the targeted implementation date. Specifically, the Board proposed that the Reserve Banks require rigorous testing in three different environments. First, the Reserve Banks would enable authorized Fedwire Funds Service users to use the Readiness Portal feature within MyStandards to ensure that their ISO 20022 messages conform to Fedwire Funds Service requirements. Second, the Reserve Banks would introduce a new depository institution testing (DIT) environment 9 to 12 months ahead of the targeted implementation date to provide users a dedicated environment for testing ISO 20022 messages, including the opportunity to conduct coordinated testing to confirm their ability to send and receive ISO 20022 messages among each other. The Reserve Banks would also provide opportunities for users to test ISO 20022 messages in the production environment on select Saturdays two to three months prior to the targeted implementation date. Third, the Reserve Banks would require certain users to complete a separate test script in each testing environment (*i.e.,* the MyStandards Readiness Portal, the DIT environment, and the production environment). The Board stated in the

*FRBServices.org, Fedwire® Funds Service—Annual Statistics, https://www.frbservices.org/resources/financial-services/wires/volume-value-stats/annual-stats.html.* CHIPS processed approximately 128 million payments with a total value of approximately $449 trillion. *See* TCH, *CHIPS Annual Statistics from 1970 to 2022, https://www.theclearinghouse.org/-/media/new/tch/documents/payment-systems/chips_volume_value_ytd_march_2022.pdf.*

[2] In this notice, the term ''users'' refers to (i) Fedwire Funds Service participants and (ii) software vendors and third-party service providers that facilitate transactions for Fedwire Funds Service participants.

[3] 83 FR 31391 (July 5, 2018).

[4] Extended remittance information generally refers to details in the payment message regarding the purpose of a business-to-business payment. For example, a business that sends a payment to a vendor could include details regarding the invoices against which the vendor should apply the payment.

[5] 86 FR 55600 (Oct. 6, 2021).

[6] In the 2018 Notice, the Board had proposed to transition from the current Fedwire Funds Service message format to ISO 20022 in three phases from November 2020 to November 2023. However, as described in the 2021 Notice, various developments caused the Board to reconsider its proposed three-phased migration to ISO 20022. For example, in September 2019, the Payments Market Practice Group—an independent advisory group of payments experts that reports to the Banking and Payments Committee of SWIFT's Board of Directors, and whose members represent global financial institutions from Asia Pacific, Europe, and North Africa—formally requested that the Board consider a single-day implementation of the ISO 20022 message standard for the Fedwire Funds Service. In addition, the Board engaged with the industry through the Format Advisory Group—which is jointly chaired by the Federal Reserve Bank of New York and TCH, and includes 18 global and regional banks, 17 of which are Fedwire Funds Service users and 10 of which are also CHIPS users—on a potential single-day implementation strategy.

[7] In addition, the 2021 Notice addressed commenters' concerns that the Fedwire Funds Service should remain interoperable with other payment and messaging systems. For example, the 2021 Notice described steps that the Reserve Banks will take to reduce the risk of cross-border interoperability issues during the interim period between SWIFT's implementation of ISO 20022 (in November 2022) and the Fedwire Funds Service's implementation of ISO 20022.

[8] For more information on MyStandards, *see https://www.swift.com/our-solutions/compliance-and-shared-services/mystandards.*

2021 Notice that the Reserve Banks would publish a final testing plan, including the testing requirements for each testing environment, after the Board announces a final implementation strategy.

Finally, the 2021 Notice described the Board's proposed backout strategy if the Reserve Banks encounter significant problems deploying ISO 20022-related changes on the Saturday before the targeted implementation date, and the Board's proposed strategy for addressing significant problems that arise on or after the implementation date. With respect to issues that arise on the Saturday before the implementation date, the Reserve Banks would have the ability to ''back out'' the ISO 20022 changes and return to the legacy format on a temporary basis. For this reason, Fedwire Funds Service users would need to attest to their ability to back out their ISO 20022 changes when they conduct their production testing. With respect to issues that arise on or after the implementation date, the Reserve Banks would not be able to return to the legacy format but would instead follow a ''fix-in-place'' strategy to address the issue.

The Board requested comment on all aspects of its proposal to migrate the Fedwire Funds service to the ISO 20022 message format on a single day. In addition, the 2021 Notice sought comment on eight specific questions.

## III. Summary of Public Comments

The Board received 60 comment letters in response to the 2021 Notice. Of those, 35 were from banks, 14 were from individuals, 5 were from industry organizations, 4 were from third-party software vendors, and 2 were from financial market utilities.[9]

The remainder of section III summarizes commenters' responses to the eight specific questions that the Board posed in the 2021 notice, as well as other issues raised by commenters.[10]

### *A. Support for Single-Day Implementation Strategy*

Of commenters expressing a preference regarding the ISO 20022 implementation strategy, the vast majority of commenters preferred the single-day implementation strategy to a phased implementation approach. However, three commenters, including a major trade association representing community banks, opposed the single-day implementation strategy, arguing that the single-day implementation approach would be unacceptably costly, would strain testing capacity, and would increase implementation risk. One commenter that opposed the single-day implementation strategy suggested that the Reserve Banks should instead implement ISO 20022 for a small group of Fedwire Funds Service users, and if that goes smoothly, migrate the remaining users to ISO 20022 at a later time. In subsequent discussions between Reserve Bank staff and the community bank trade association that expressed opposition to a single-day implementation approach, the commenter expressed support for a single-day implementation approach provided that the implementation date is significantly delayed past November 2023 and there is a full year of testing in the DIT environment.

In light of the broad support for the single-day implementation approach, and as discussed further in section IV, *infra,* the Board is announcing that the Reserve Banks will adopt the ISO 20022 standard for the Fedwire Funds Service on a single day.

### *B. Proposed Implementation Date*

While several commenters supported the proposed targeted November 2023 implementation date, the vast majority of commenters that addressed the implementation date requested a 6- to 12-month extension beyond the implementation date proposed in the 2021 Notice. In addition, several commenters suggested that the implementation date should not fall close to a U.S. banking holiday or the winter holiday season to avoid implementing ISO 20022 during a period of increased Fedwire Funds Service transaction volume; in subsequent discussions with Reserve Bank staff, some of these commenters similarly expressed a preference that the implementation date should not fall at the end of a month or a calendar quarter. One commenter urged the Board and the Reserve Banks to work with the other global payment systems operators and SWIFT to ensure that the international ISO 20022 implementation schedule includes adequate buffer time between the implementation dates for various payment systems. One commenter suggested that the Board consider an implementation date that provides a gap—preferably up to one year—between the launch of the FedNow℠ Service and the ISO 20022 implementation for the Fedwire Funds Service. Another commenter asked the Board to consider the impact that the proposed implementation timeline would have on third-party vendors performing fraud detection and compliance services for Fedwire Funds Service users.

The Board has reconsidered the proposed targeted November 2023 implementation date in light of the comments received. As discussed further in section IV.A., *infra,* the Board is announcing that the Reserve Banks will implement the ISO 20022 message format for the Fedwire Funds on March 10, 2025.

### *C. Synchronization With CHIPS*

Many commenters expressed a preference for synchronizing the ISO 20022 implementation timing of the Fedwire Funds Service and CHIPS. Of these commenters, one commenter suggested that if the implementation dates for the Fedwire Funds Service and CHIPS do not align, then the Board should ensure that the implementation timeline for the Fedwire Funds Service builds in an adequate gap between the two migrations. By contrast, two commenters noted that implementing the ISO 20022 message format for the Fedwire Funds Service and CHIPS at the same time would increase the risk that an implementation-related issue could result in the simultaneous disruption of both services, leaving users without an alternative operator to process wire transactions.

While the Reserve Banks and TCH decided independently to pursue implementation of ISO 20022, the Reserve Banks have worked with TCH on plans to adopt the ISO 20022 message format for the Fedwire Funds Service and CHIPS since 2015. The Reserve Banks intend to continue working with TCH to coordinate the implementation of ISO 20022 for the Fedwire Funds Service with that of CHIPS to the extent possible to reduce both interoperability issues and the risk of simultaneous disruptions to users of both services.

### *D. Resource Constraints*

Multiple commenters expressed concerns about resource constraints resulting from the need to prepare simultaneously for the launch of the FedNow Service and the implementation of the ISO 20022 message format for the Fedwire Funds Service. Specifically, several commenters suggested the Board consider the effects of any new payment systems technology initiatives on financial institutions' already strained technology resources. One of these commenters specifically noted that the potential concurrent implementation of the FedNow Service and the ISO 20022

[9] Duplicate submissions or similar comments from the same commenter were treated as a single submission.

[10] For simplicity, two of these questions related to testing are discussed together in section III.E, *infra.*

message format for the Fedwire Funds Service would strain the resources of community banks, particularly their information technology departments and vendors. Another commenter noted that in addition to the Federal Reserve's payment system modernization efforts, some banks must also allocate resources in preparation for SWIFT's transition to the ISO 20022 format in November 2022.

Commenters also suggested that the Board communicate to the industry its prioritization of the Federal Reserve's ongoing and potential payment systems technology initiatives. For example, commenters suggested the Board communicate whether it is prioritizing the implementation of the ISO 20022 message format for the Fedwire Funds Service relative to the deployment of the FedNow Service and the potential expansion of the operating hours of the Fedwire Funds Service and National Settlement Service (NSS).

The Board is cognizant of the fact that institutions may have limited financial and human capital resources available for competing payments-related priorities. The FedNow Service is expected to go online in 2023.[11] The Board believes that shifting the implementation date for the migration of the Fedwire Funds Service to the ISO 20022 format to March 10, 2025, rather than targeting November 2023 as proposed, should mitigate commenters' concerns regarding resource constraints in light of the launch of the FedNow Service.

In the 2021 Notice, the Board indicated that it planned to issue a **Federal Register** notice in 2022 to seek input on a proposal to expand Fedwire Funds Service and NSS operating hours up to 24x7x365. The Board believes that the goal of providing large-value payments 24x7x365 aligns with the Federal Reserve's commitment to position the nation's payment and settlement infrastructure for the future.[12] While the Federal Reserve intends to continue exploring the potential expansion of the Fedwire Funds Service and NSS operating hours, the Reserve Banks plan to dedicate more resources in the near term to ensuring the successful implementation of ISO 20022. The Reserve Banks plan to engage further with Fedwire Funds Service and NSS users throughout 2022 to inform considerations related to the Reserve Banks' longer-run provision of large-value payments, including the potential expansion of Fedwire Funds Service and NSS operating hours. The Board believes that a **Federal Register** notice regarding the potential expansion of operating hours should be informed by insights that will be gained through the Reserve Banks' discussions with users. Therefore, the Board plans to issue a **Federal Register** notice regarding the potential expansion of Fedwire Funds Service and NSS operating hours after the Reserve Banks complete their outreach sessions.

*E. Proposed Testing Strategy, Requirements, and Timeline*

The majority of commenters that took a position on testing were supportive of, or neutral about, the proposed testing strategy and requirements. Several commenters encouraged the Board to share, as early as possible, testing plans and test scripts for the three proposed testing environments. One commenter noted that the proposed Saturday production testing plan did not offer enough Saturdays for users to conduct production testing. Another commenter suggested that the Reserve Banks provide test accounts for users during testing. This commenter also suggested the Board establish a technology roadmap that would lay out a series of key dates and milestones for the system requirements and testing procedures. In addition, two commenters stated that the Board and TCH should coordinate on industry testing for the Fedwire Funds Service and CHIPS. One commenter requested the Board provide additional details regarding (i) validation capabilities of the MyStandards Readiness Portal; (ii) whether the new DIT environment requires Fedwire Funds Service users to internally operate two parallel test environments; (iii) who will coordinate testing between users; (iv) whether there will be specific periods to test functionality between users; and (v) what the specific test scripts will entail.

Commenters expressed a variety of opinions about the amount of time needed for testing in the MyStandards Readiness Portal and the DIT environment. For testing in the MyStandards Readiness Portal, preferred timeframes ranged from one week to nine months. For testing in the DIT environment, many commenters expressed comfort with the 9- to 12-month timeframe proposed in the 2021 Notice, while others felt that the proposed range was too short. Of those, several requested no less than 12 months of DIT environment testing time, while others requested an additional 12 months of testing time on top of the 9- to 12-month range proposed in the 2021 Notice.

One commenter requested that the Board ensure all Fedwire Funds Service users be granted adequate access to all of the testing environments. The commenter also suggested that certain third parties should be subject to the certification process at all stages, and information about their progress should be made publicly available.

The Board has considered all comments related to the proposed testing strategy, requirements, and timeline. As discussed further in section IV.B, *infra,* the Board is announcing a revised testing strategy in response to commenter feedback. In particular, the revised testing strategy includes 12 months of DIT testing time for users to prepare for the migration of the Fedwire Funds Service to the ISO 20022 message format.

*F. Proposed Backout Strategy and Fix-in-Place Strategy*

Most commenters that addressed the proposed backout and fix-in-place strategies described in the 2021 Notice were neutral about, or supportive of, the proposed strategies. Two commenters expressed concern that the backout timeframe was too short, providing only two days of notice for users to revert back to the legacy format. One commenter noted that some users typically require one week or more to complete change control processes. Another commenter recommended the Board commence the backout period one week earlier than was proposed in the 2021 Notice, thereby providing users with up to nine days to revert back to the legacy format prior to the implementation date. This would provide users that have prepared large numbers of ISO 20022-formatted payments in advance with adequate time to convert those payments back to the legacy format. A different commenter suggested the Board consider a continuity strategy that includes criteria for users to request an extension in the event that they are not prepared to implement ISO 20022 on a designated date. Finally, one commenter suggested the Board consider conducting a mock activation test before the implementation date to perform a final assessment of industry readiness and simulate the steps needed to perform a backout.

The Board has considered all comments related to the proposed backout strategy and fix-in-place strategy. As discussed further in section IV.D, *infra,* the Board is announcing a revised backout strategy that will provide Fedwire Funds Service users

[11] *See FRBServices.org, Federal Reserve Updates FedNow℠ Service Launch to 2023* (Feb. 2, 2021), *https://www.frbservices.org/financial-services/fednow/blog/updated-fednow-service-launch-to-2023.html.*

[12] 86 FR 55600, 55606 (Oct. 6, 2021).

with at least two weeks' advance notice if the implementation of ISO 20022 must be delayed.

*G. Other Issues Raised by Commenters*

The Board received many comments that, while relevant to the ISO 20022 implementation strategy for the Fedwire Funds Service, did not directly respond to one of the questions in the 2021 Notice.[13] For example, two commenters addressed the possibility that some financial institutions would not be prepared to meet a November 2023 implementation timeframe and suggested the Board and the Reserve Banks develop a service to translate legacy Fedwire Funds Service messages to the ISO 20022 format while supporting normal transaction volumes for all users. However, one of the two commenters noted that the benefits of such a service should be weighed against any potential implementation delay caused by its development. The Reserve Banks considered developing such a translation service but concluded that doing so would further delay the ISO 20022 implementation process.

Another commenter suggested the Board develop policies and procedures regarding the storage and retrieval of data under the old and new formats. The Reserve Banks have already announced policies regarding retrievals, which differ depending on how users access the Fedwire Funds Service.[14]

Many commenters supported future educational efforts and industry outreach related to ISO 20022 by the Board and the Reserve Banks, including a comprehensive education and training campaign through webinars, online training, and in-person workshops. In addition, many commenters expressed support for transparent and continuous communication to, and coordination with, the industry by the Board and the Reserve Banks at various stages of the ISO 20022 implementation process. One commenter suggested the Reserve Banks provide real-time updates to the industry during the go-live weekend so the industry could prepare to activate the back-out strategy if needed. Another commenter suggested the Reserve Banks provide Fedwire Funds Service users with status updates on the progress their peers are making toward implementing the ISO 20022 message format so that all users can gauge whether the Reserve Banks are on track to meet the implementation date. One commenter suggested the Reserve Banks establish and publicly disseminate a certification process for each essential stage of the ISO 20022 implementation. The commenter asserted that this certification process would allow users to benchmark their progress against that of their peers, while providing the Board and the Reserve Banks with an early warning system in the event that users fall behind the certification schedule. Finally, to fully evaluate the best approach for the industry, a commenter recommended the Reserve Banks engage in continuous dialogue and coordination throughout the ISO 20022 implementation process with TCH, as well as common users of both the Fedwire Funds Service and CHIPS, and key third-party service providers (*e.g.,* cloud computing companies and platform software vendors).

The Board agrees with commenters that effective communication and industry outreach are essential to ensuring a smooth transition to the ISO 20022 message format for the Fedwire Funds Service. As discussed further in section IV.E, *infra,* the Reserve Banks are developing a communication and education strategy that is intended to promote industry readiness. In addition, as discussed further in section IV.C, *infra,* the Reserve Banks will develop an Industry Readiness Dashboard to provide transparency regarding industry readiness for the ISO 20022 migration.

Although the Board did not request feedback on this topic, several commenters provided feedback regarding the format and content of specific message data elements, character sets, and other ISO 20022 format specifications discussed in the 2018 Notice and the 2021 Notice. The Board notes that the Reserve Banks will soon publish the ISO 20022 message format specifications for the Fedwire Funds Service on the MyStandards application; the specifications will be made publicly available and they will align with industry guidelines for high-value payment systems.

## IV. Implementation of the ISO 20022 Standard for the Fedwire Funds Service

The Board has considered all feedback received in connection with the 2021 Notice and is announcing that the Reserve Banks will implement the ISO 20022 message format for the Fedwire Funds Service on a single day, as proposed. The Board notes that the proposed single-day implementation strategy was supported by the vast majority of public commenters. The Board continues to believe that a single-day implementation strategy is preferable to a three-phased implementation approach because it is both simpler and more efficient for Fedwire Funds Service users and the Reserve Banks to meet a single implementation deadline rather than three unique deadlines. Specifically, by removing the first two phases of the three-phased implementation approach proposed in the 2018 Notice, the single-day implementation approach enables users to focus their attention and resources on a single development and testing target. Eliminating the first two phases of the implementation strategy is also likely to reduce Fedwire Funds Service users' overall costs related to software development, testing, and training.

Further, the Board believes the single-day implementation strategy will be more expedient than the proposed three-phased implementation strategy. Many domestic and international large-value payment and messaging systems have announced plans to migrate to the ISO 20022 format in 2022 and 2023, and the Board believes that a single-day implementation strategy will more closely align the implementation of the ISO 20022 format for the Fedwire Funds Service with that of other payment and messaging systems.[15]

The remainder of this section provides additional information regarding the Reserve Banks' strategy for implementing ISO 20022 for the Fedwire Funds Service.

*A. Implementation Date*

The Board is announcing that the Fedwire Funds Service will migrate to the ISO 20022 message format on March 10, 2025. The Board determined that it is appropriate to shift the implementation of ISO 20022 for the Fedwire Funds Service beyond the proposed targeted November 2023 implementation date based on commenters' requests for additional time for testing ISO 20022 messages, as well as their concerns that competing payment systems-related technology initiatives would constrain resources needed for ISO 20022 implementation. In addition, the Board selected the date to avoid implementing the ISO 20022 message format close to a U.S. banking holiday, during the winter holiday season (which also generally coincides

[13] In addition, the Board received a number of comments that were not relevant to the proposed ISO 20022 implementation strategy for the Fedwire Funds Service. The Board is not responding to these comments in this notice.

[14] *See FRBServices.org, Fedwire Funds Service ISO 20022 Implementation Frequently Asked Questions* (rev. as of October 2021), *https://www.frbservices.org/resources/financial-services/wires/faq/iso-20022-implementation.html* (''How will retrievals be supported when the new format is implemented?'').

[15] As noted previously, SWIFT will transition to the ISO 20022 message format in November 2022. TCH has announced that CHIPS will transition to the ISO 20022 message format in November 2023.

with many firms' annual freeze periods for significant technology changes), or at the end of a month or quarter. The date also provides a gap between the launch of the FedNow Service and the ISO 20022 implementation for the Fedwire Funds Service.

*B. Revised Testing Strategy*

The Board is announcing that the Reserve Banks will adopt the proposed testing strategy in the 2021 Notice, with several modifications in response to commenter feedback. Given the magnitude of the changes required to support the ISO 20022 messaging standard, the Reserve Banks will require certain users to complete robust testing.[16] By the end of 2022, the Reserve Banks will notify all users that will be required to complete testing. The required testing will take places across multiple testing environments, described in more detail below. The Reserve Banks will provide detailed test scripts and attestation forms for each test environment in advance of making each environment available for testing.

i. Advance Testing Through the MyStandards Readiness Portal

The MyStandards Readiness Portal will be a dedicated testing environment that will allow users to validate their ISO 20022 messages against the Fedwire Funds Service ISO 20022 specifications before beginning testing in the new DIT environment described below. Specifically, users will be able to submit their ISO 20022 messages to the MyStandards Readiness Portal to ensure that their messages are structured properly and pass various format requirements for each message (*e.g.,* mandatory versus optional data elements, minimum or maximum field lengths, allowable characters or codes). This advance testing will greatly reduce the risk of Fedwire Funds Service users encountering message format errors during the next phases of testing. Certain users will be required to attest to successful completion of a test script in the MyStandards Readiness Portal before conducting testing in the new DIT environment.

Users will need a valid *swift.com* login ID and password to access the MyStandards Readiness Portal. The Reserve Banks will make the MyStandards Readiness Portal available to users by the end of 2022; the MyStandards Readiness Portal will remain available throughout the ISO 20022 implementation process.

ii. New Depository Institution Testing Environment (DIT2)

The Reserve Banks will introduce a new testing environment that will allow users to perform dedicated testing with the new ISO 20022 version of the Fedwire Funds Service application software.[17] In early 2023, the Reserve Banks will notify users about the process for establishing access to DIT2. The Reserve Banks will make the DIT2 environment available to users at least 12 months prior to the implementation date, rather than 9 months as proposed. The Reserve Banks will also provide opportunities for users to test with each other in DIT2. Certain users will be required to attest to successful completion of a test script in DIT2 before conducting testing in the production environment.

iii. Production Environment

The Reserve Banks will deploy the ISO 20022 version of the Fedwire Funds Service software to the production environment on select Saturdays prior to the implementation date to allow users to test their ISO 20022 changes with the Fedwire Funds Service production software. Certain users will be required to attest to successful completion of a test script in the production environment prior to the implementation. The Reserve Banks will announce the dates for the Saturday production testing at least one year prior to the implementation date.

*C. Industry Readiness Dashboard*

Once testing begins, the Reserve Banks will publish a dashboard on the ISO 20022 web page on the *FRBservices.org* website to provide transparency into industry readiness throughout the project lifecycle. The dashboard will also provide early insights into issues that could potentially impact the implementation timeline. While the Reserve Banks will monitor individual user readiness, the dashboard will highlight industry readiness by user categories (*e.g.,* national accounts, service providers, bankers' banks/corporate credit unions) across key testing milestones.

*D. Revised Backout Strategy and Fix-in-Place Strategy*

i. Revised Backout Strategy and ''Go/No Go'' Decision

The Board is announcing that the Reserve Banks will follow a modified version of the proposed backout strategy, which has been revised in response to commenter feedback. Under the revised backout strategy, the Reserve Banks will complete all internal and user testing activities at least two weeks prior to the ISO 20022 implementation date and make a ''go/no go'' decision based on internal and industry readiness. The Reserve Banks will notify all users about the ''go/no go'' decision no later than two weeks prior to the implementation date. If a ''go'' decision is made, the Reserve Banks will be subject to a two-week freeze period during which no further changes would be made to the ISO 20022 software and production infrastructure. If the Reserve Banks decide to delay the implementation date for any reason, the notification would provide users two weeks' advance notice to adjust their plans.

ii. Fix-in-Place Strategy

The Reserve Banks will follow the fix-in-place strategy described in the 2021 Notice substantially as proposed. On the Saturday before the implementation date (assuming that a ''go'' decision was made, and following the two-week freeze period), the Reserve Banks will deploy the ISO 20022 software to the production environment. The Reserve Banks will follow a fix-in-place strategy if any issues arise during or after the deployment. If issues do arise, the Reserve Banks will implement a software update to address the issue as soon as the fix has been identified and fully tested. This strategy is consistent with prior customer-facing initiatives and received broad support from commenters.

*E. Communication and Education Strategy*

The Reserve Banks are planning to share information pertaining to the implementation of the ISO 20022 message format for the Fedwire Funds Services through the following channels:

- The ISO 20022 web page on the *FRBservices.org* website, which will

[16] The Reserve Banks will require the following types of users to complete a test script in each of the three test environments: (i) all users that have their own FedLine Direct® connection to the Fedwire Funds Service, which includes service providers that host the connection for other users, bankers' banks, and corporate credit unions; and (ii) users that import 100 or more transactions per day using the FedPayments Manager—Funds application via the FedLine Advantage® solution. Based on additional analysis by the Reserve Banks, this list of users who will be required to test has been modified slightly from the proposed testing strategy described in the 2021 Notice.

[17] The existing user testing environment (DIT1) will remain available and include the version of the Fedwire Funds Service application software that will become effective November 21, 2022. DIT1 will be available for users to perform application functionality testing with the current format to support internal changes necessary before ISO 20022 implementation. It will also enable service providers to onboard new users prior to ISO 20022 implementation.

provide up-to-date information on all aspects of the ISO 20022 migration, including frequently asked questions, a list of software vendors that the Reserve Banks are working with to ensure readiness for the ISO 20022 implementation, and the industry readiness dashboard to track industry progress against key milestones;

• SWIFT's MyStandards application, which will include technical documentation related to the ISO 20022 messages that will be implemented for the Fedwire Funds Service;

• Fed360 articles and targeted user communications, which will announce the final ISO 20022 implementation timeline and testing requirements, highlight key milestones pre- and post-implementation, invite users to education events, and remind users about testing requirements and deadlines; and,

• Webinars, which will educate users on all aspects of the ISO 20022 migration. The first series of webinars will begin in the fourth quarter of 2022. The Reserve Banks will announce the dates for the webinars at least one month ahead of each webinar. The Reserve Banks will record the webinars and make them available to users.

By order of the Board of Governors of the Federal Reserve System.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2022–23002 Filed 10–21–22; 8:45 am]

**BILLING CODE P**

## GENERAL SERVICES ADMINISTRATION

**[Notice BSC–TRT–2022–01; Docket No. BSC–TRT–2022–0003; Sequence 1]**

### Business Standards Council Review of Travel, Relocation, and Transportation (TRT) Federal Integrated Business Framework Business Standards: Request For Public Comment

**AGENCY:** Office of Government-wide Policy; General Services Administration (GSA).

**ACTION:** Request for public comment.

**SUMMARY:** This notice informs the public of the opportunity to provide input on the proposed travel and expense management business standards that have been created in support of Federal shared services. This is the first set of TRT standards being developed and input will be used in formulation of business standards for Federal travel.

**DATES:** *Comments due:* Interested parties should submit comments via the method outlined in the **ADDRESSES** section on or before November 23, 2022.

**ADDRESSES:** Submit comments in response to Notice BSC–TRT–2022–01 by *Regulations.gov*: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice BSC–TRT–2022–01.'' Select the link ''Comment Now'' that corresponds with ''Notice BSC–TRT–2022–01.'' Follow the instructions provided at the screen. Please include your name, company name (if any), and ''Notice BSC–TRT–2022–01'' on your attached document.

• *Instructions:* Please submit comments only and cite ''Notice BSC–TRT–2022–01,'' in all correspondence related to this notice. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov,* approximately two to three business days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Thomas Mueller, Travel, Relocation, Transportation & Mail Policies Director, at 202–208–0247, or by email at *thomas.mueller@gsa.gov.*

**SUPPLEMENTARY INFORMATION:** On April 26, 2019, the Office of Management and Budget published OMB memorandum 19–16, Centralized Mission Support Capabilities for the Federal Government (available at *https://www.whitehouse.gov/wp-content/uploads/2019/04/M-19-16.pdf*). Mission support business standards, established and agreed to by agencies, using the Federal Integrated Business Framework (FIBF) website at *https://ussm.gsa.gov/fibf/,* enable the Federal Government to better coordinate on the decision-making needed to determine what can be adopted and commonly shared. These business standards are an essential first step towards agreement on outcomes, data, and cross-functional end-to-end processes that will drive economies of scale and leverage the Government's buying power. The business standards will be used as the foundation for common mission support services shared by Federal agencies.

GSA serves as the TRT business standards lead on the Business Standards Council (BSC). The goal of the travel and expense management business standards is to drive travel consistency, equity, and standardization across the Federal Government.

GSA is seeking public feedback on these draft business standards (*i.e.,* functions and activities, business capabilities, business use cases, standard data elements, service measures, and business information exchange standards between the travel solution and financial management solution(s)), including comments on understandability of the standards, suggested changes, and usefulness of the draft standards to industry and agencies.

Guiding questions in standard development include:

• Do the draft business standards appropriately document the business processes covered?

• Are the draft business standards easy to understand?

• Will your organization be able to show how your solutions and/or services can meet these draft business standards?

• What would you change about the draft business standards? Is there anything missing?

Comments will be used in formulation of the final business standards.

**Krystal J. Brumfield,**

*Associate Administrator, Office of Government-wide Policy, General Services Administration.*

[FR Doc. 2022–23076 Filed 10–21–22; 8:45 am]

**BILLING CODE 6820–14–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Solicitation of Nominations for Appointment to the Advisory Committee on Breast Cancer in Young Women (ACBCYW)

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the ACBCYW. The ACBCYW consists of 15 experts in fields associated with breast cancer, disease prevention, early detection, diagnosis, public health, social marketing, genetic screening and counseling, treatment, rehabilitation, palliative care, and survivorship in young women, or in related disciplines with a specific focus on young women.

**DATES:** Nominations for membership on the ACBCYW must be received no later than December 29, 2022. Packages received after this time will not be considered for the current membership cycle.

**ADDRESSES:** All nominations should be mailed to Kimberly E. Smith, MBA, MHA. c/o ACBCYW Secretariat, Centers

for Disease Control and Prevention, 3719 North Peachtree Road, Building 100, Chamblee, Georgia 30341, or emailed (recommended) to *acbcyw@cdc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kimberly E. Smith, MBA, MHA, Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway NE, Mailstop S107–4, Atlanta, Georgia 30341; 404–498–0073; *acbcyw@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of breast health, breast cancer, disease prevention and risk reduction, survivorship (including metastatic breast cancer), hereditary breast and ovarian cancer, or in related disciplines with a specific focus on young women. Persons with personal experience with early onset breast cancer are also eligible to apply. This includes, but may not be limited to breast cancer survivors <45 years of age and caregivers of said persons. Federal employees will not be considered for membership. Members may be invited to serve up to four-year terms.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of ACBCYW objectives *http://www.cdc.gov/maso/facm/facmacbcyw.html.*

The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for ACBCYW membership each year, and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in November 2023, or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address).
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).
- A short biography (150 words or less).

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2022–23011 Filed 10–21–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH); Notice of Charter Renewal

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of charter renewal.

**SUMMARY:** This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through February 3, 2023.

**FOR FURTHER INFORMATION CONTACT:** Maria Strickland, M.P.H., Designated Federal Officer, BSC, NIOSH, CDC, HHS, Patriots Plaza 1, 395 E Street SW, Mailstop P06, Washington, District of Columbia 20201; Telephone: (202) 245–0649; Email: *MStrickland2@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2022–23007 Filed 10–21–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–10609]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper

performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by December 23, 2022.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS—10609 Medicaid Program Face-to-Face Requirements for Home Health Services and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

**Information Collection**

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Program Face-to-Face Requirements for Home Health Services and Supporting Regulations; *Use:* Physicians (or for medical equipment, authorized non-physician practitioners (NPPs) including nurse practitioners, clinical nurse specialists and physician assistants) must document that there was a face-to-face encounter with the Medicaid beneficiary prior to the physician making a certification that home health services are required. The burden associated with this requirement is the time and effort to complete this documentation. The burden also includes writing, typing, or dictating the face-to-face documentation and signing/dating the documentation. *Form Number:* CMS–10609 (OMB control number: 0938–1319); *Frequency:* Occasionally; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 381,148; *Total Annual Responses:* 1,143,443; *Total Annual Hours:* 190,955. For policy questions regarding this collection contact Alexandra Smilow at 410–786–0790.

Dated: October 17, 2022.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2022–23001 Filed 10–21–22; 8:45 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[OMB No. 0970–0345]**

### Proposed Information Collection Activity; Temporary Assistance for Needy Families (TANF) Financial Report, ACF–196T

**AGENCY:** Office of Family Assistance, Administration for Children and Families, U.S. Department of Health and Human Services.

**ACTION:** Request for public comments.

**SUMMARY:** The Administration for Children and Families (ACF) is requesting a 3-year extension of the Temporary Assistance for Needy Families (TANF) Financial Report, Form ACF–196T (Office of Management and Budget (OMB) #0970–0345, expiration April 30, 2023). ACF is proposing minor updates to the form to remove a reporting line-item reference that was associated with an expired program expenditure and minor edits to the instructions and formatting to better the presentation of the document.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act (PRA) of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* Grantees of the TANF program are required by statute to report financial data on a quarterly basis. Form ACF–196T is used by tribal agencies administering the TANF program to report these quarterly expenditure data and to request quarterly grant funds. Failure to collect the data would seriously compromise the Office of Family Assistance and ACF's ability to monitor TANF expenditures and compliance with statutory requirements. These data are also needed to estimate outlays and to prepare reports and budget submissions for Congress.

*Respondents:* Tribal agencies receiving a direct grant from OFA to administer a TANF program.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Annual number of responses per respondent | Average burden hours per response | Annual burden hours |
|---|---|---|---|---|
| TANF Financial Report, Form ACF–196T | 51 | 4 | 1.5 | 306 |

*Estimated Total Annual Burden Hours:* 306.

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

*Authority:* Social Security Act, Section 409; 45 CFR 286,245–286.285.

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2022–23013 Filed 10–21–22; 8:45 am]

**BILLING CODE 4184–36–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–N–5553]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Annual Summary Reporting Requirements Under the Right to Try Act

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments (including recommendations) on the collection of information by November 23, 2022.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0893. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Annual Summary Reporting Requirements Under the Right to Try Act

*OMB Control Number 0910–0893*

This information collection helps to implement provisions of the Federal Food, Drug, and Cosmetic Act (FD&C Act), added by the Right to Try Act, which requires sponsors and manufacturers who provide an ''eligible investigational drug'' under the Right to Try Act to submit to FDA an annual summary of such use. Regulations under § 300.200 (21 CFR 300.200) will require that sponsors and manufacturers submit to FDA an annual summary no later than March 31 of each year, including data for the preceding calendar year, that includes the following data elements:

- The name of the eligible investigational drug and applicable investigational new drug application number.
- The number of doses supplied to the eligible patient.
- The number of eligible patients treated.
- The use for which the eligible investigational drug was made available to the eligible patient.
- Any known serious adverse events and outcomes that the eligible patient treated with an eligible investigational drug experienced.

*Description of Respondents:* Respondents to the information collection are sponsors and manufacturers who provide an eligible investigational drug to eligible patients in accordance with the Right to Try Act and will submit to FDA annual summaries.

In the **Federal Register** of September 14, 2022 (87 FR 56269), we published a final rule (RIN 0910–AI36), including an analysis of the information collection, and discussed the development of an associated form to facilitate submission of the requisite information. Accordingly, we have developed Form FDA 5023 entitled ''Right To Try Reporting Requirement: Annual Summary,'' which is currently available in the docket for comment purposes only, and we are inviting public comment. As required by the applicable statute, section 561B of the FD&C Act (21 U.S.C. 360bbb–0a), the information is submitted to an FDA-designated point of contact, and in accordance with instructions to be posted at: *https://www.fda.gov/patients/learn-about-expanded-access-and-other-treatment-options/right-try.*

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity; 21 CFR citation | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response (in hours) | Total hours |
|---|---|---|---|---|---|
| Sponsors and manufacturers submit annual summaries in accordance with the Right to Try Act (§ 300.200) using Form FDA 5023 | 6 | 1 | 6 | 2.5 | 15 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Consistent with estimates in our Final Regulatory Impact Analysis for the associated final rule, we estimate that six sponsors and manufacturers will prepare and submit Form FDA 5023 and assume it takes 2.5 hours to prepare and submit each summary, which results in a total of 15 hours annually.

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23035 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–N–2391]**

### Miles Laboratories Inc.; Proposal To Withdraw Approval of an Abbreviated New Drug Application for Alcohol and Dextrose Injection; 5 Milliliters/100 Milliliters, 5 Grams/100 Milliliters; Opportunity for a Hearing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration's (FDA or Agency) Center for Drug Evaluation and Research (CDER) is proposing to withdraw approval of an abbreviated new drug application (ANDA) for Alcohol and Dextrose Injection, 5 milliliters (mL)/100 mL, 5 grams (g)/100 mL, and is announcing an opportunity for the ANDA holder to request a hearing on this proposal: Miles Laboratories Inc., P.O. Box 1986, 4th and Parker St., Berkeley, CA 94701, is the last holder of record. The bases for the proposal are that the ANDA holder has repeatedly failed to file required annual reports for this ANDA and that the Agency has scientific data and experience to show that the drug product under this ANDA is unsafe for use under the conditions of use for which the product was approved.

**DATES:** The ANDA holder may submit a request for a hearing by November 23, 2022. Submit all data, information, and analyses upon which the request for a hearing relies by December 23, 2022. Submit electronic or written comments by December 23, 2022.

**ADDRESSES:** The request for a hearing may be submitted by the ANDA holder by either of the following methods:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments to submit your request for a hearing. Comments submitted electronically to *https://www.regulations.gov,* including any attachments to the request for a hearing, will be posted to the docket unchanged.

*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.
- Because your request for a hearing will be made public, you are solely responsible for ensuring that your request 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. The request for a hearing must include the Docket No. FDA–2022–N–2391 for ''Miles Laboratories Inc.; Proposal To Withdraw Approval of an Abbreviated New Drug Application for Alcohol and Dextrose Injection, 5 Milliliters/100 Milliliters, 5 Grams/100 Milliliters; Opportunity for a Hearing.'' The request for a hearing will be placed in the docket and 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.

The ANDA holder may submit all data and analyses upon which the request for a hearing relies in the same manner as the request for a hearing except as follows:

- Confidential Submissions—To submit any data analyses with confidential information that you do not wish to be made publicly available, submit your data and analyses only as a written/paper submission. You should submit two copies total of all data and analyses. 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 any decisions on this matter. 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* or available at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. Submit both copies to the Dockets Management Staff. Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law.

*Comments Submitted by Other Interested Parties:* For all comments submitted by other interested parties, submit comments 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–2022–N–2391 for ''Miles Laboratories Inc.; Proposal To Withdraw Approval of an Abbreviated New Drug Application for Alcohol and Dextrose Injection, 5 Milliliters/100 Milliliters, 5 Grams/100 Milliliters; Opportunity for a Hearing.'' Received comments, those filed in a timely manner (see **ADDRESSES**), 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 § 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://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.

**FOR FURTHER INFORMATION CONTACT:** Kaetochi Okemgbo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993–0002, 301–796–1546.

**SUPPLEMENTARY INFORMATION:** On November 22, 1974, FDA approved ANDA 083483 for Alcohol and Dextrose Injection. In a letter dated June 23, 1999, Bayer Corporation, which had at least partially acquired Miles Laboratories Inc., notified FDA that Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, the subject of ANDA 083483, was no longer marketed, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' FDA has not received information specified in 21 CFR 314.72 to change the ownership of ANDA 083483, although Miles Laboratories Inc. does not appear to be separately manufacturing drug products. The Agency is therefore identifying Miles Laboratories Inc. as the ANDA holder of record in this **Federal Register** notice, but in the event that another entity holds ANDA 083483, the Agency is also providing notice to that entity.

The holder of an approved ANDA to market a new drug for human use is required to submit annual reports to FDA concerning its approved ANDA under §§ 314.81 and 314.98 (21 CFR 314.81 and 314.98). Because the holder of ANDA 083483 for Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, has repeatedly failed to submit the required annual reports, FDA proposes to withdraw approval of ANDA 083483 under § 314.150(b)(1) (21 CFR 314.150(b)(1)).

Additionally, under 21 CFR 314.161, FDA has determined that Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, approved under ANDA 083483 was withdrawn from sale for safety and effectiveness reasons (see 86 FR 72606 (December 22, 2021)) (this determination also applied to other applications and to the 10 mL/100 mL, 5 g/100 mL strength of Alcohol and Dextrose Injection approved under NDA 004589). In light of our determination, FDA proposes to withdraw approval of ANDA 083483 under § 314.150(a)(2)(i) because the Agency has scientific data and experience to show that Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, is unsafe for use under the conditions of use for which the product was approved.

As explained in our **Federal Register** notice determining that Alcohol and Dextrose was withdrawn for safety and effectiveness reasons, Alcohol and Dextrose Injection is indicated to provide increased caloric intake. The use of Alcohol and Dextrose raises several safety concerns because there are many risks associated with the exposure to alcohol. Today, alcohol is contraindicated for use in patients with neurologic disorders, such as seizures, who have current or past substance abuse problems or who are pregnant. It can cause intoxication, respiratory depression, and disturbances in serum glucose levels. FDA-approved alternatives for intravenous calorie supplementation that do not include alcohol were approved after these Alcohol and Dextrose products and are available today.

Therefore, notice is given to the ANDA holder and to all other interested persons that the Director of CDER proposes to issue an order, under section 505(e)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(e)(2)), withdrawing approval of ANDA 083483 and all amendments and supplements thereto on the grounds that: (1) the ANDA holder has failed to submit reports required under §§ 314.81 and 314.98 and section 505(k) of the FD&C Act, and (2) the Agency has scientific data and experience to show that Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, is unsafe for use under the conditions of use for which the product was approved.

In accordance with section 505(e) of the FD&C Act and §§ 314.150(a)(2)(i) and (b)(1) and § 314.200 (21 CFR 314.200), the ANDA holder is hereby provided an opportunity for a hearing to show why the approval of ANDA 083483 should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the

legal status of the drug product covered by ANDA 083483.

An ANDA holder who decides to seek a hearing must file the following: (1) a written notice of participation and request for a hearing (see **DATES** and **ADDRESSES**) and (2) the data, information, and analyses relied on to demonstrate that there is a genuine and substantial issue of fact that requires a hearing (see **DATES** and **ADDRESSES**). Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, notice of participation and request for a hearing, the information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 314.200 and in 21 CFR part 12.

The failure of an ANDA holder to file a timely written notice of participation and request for a hearing, as required by § 314.200, constitutes an election by that ANDA holder not to avail itself of the opportunity for a hearing concerning CDER's proposal to withdraw approval of the ANDA and constitutes a waiver of any contentions concerning the legal status of the drug product. FDA will then withdraw approval of the ANDA, and the drug product may not thereafter be lawfully introduced or delivered for introduction into interstate commerce. Any new drug product introduced or delivered for introduction into interstate commerce without an approved ANDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing (§ 314.200(g)). If a request for a hearing is not complete or is not supported, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing (§ 314.200(g)(1)).

All submissions under this notice of opportunity for a hearing must be filed in two copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.*

This notice is issued under section 505(e) of the FD&C Act and under authority delegated to the Director of CDER by the Commissioner of Food and Drugs.

Dated: October 14, 2022.

**Patrizia Cavazzoni,**

*Acting Director, Center for Drug Evaluation and Research.*

[FR Doc. 2022–23034 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–2170]**

### Topical Dermatologic Corticosteroids: In Vivo Bioequivalence; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Topical Dermatologic Corticosteroids: In Vivo Bioequivalence.'' This draft guidance is intended to assist applicants who submit abbreviated new drug applications (ANDAs) for topical dermatologic corticosteroid products of all potency groups (referred to in this notice as topical corticosteroids). The draft guidance describes recommendations for an in vivo pharmacodynamic approach to demonstrate the bioequivalence of topical corticosteroids. When finalized, this guidance will replace FDA's 1995 guidance for industry of the same name. Revising this guidance will provide clarity for potential ANDA applicants on the appropriate pilot and pivotal studies and other recommendations for pharmacodynamic approach to assess the bioequivalence of topical dermatologic corticosteroids. These recommendations have evolved since the original guidance was issued in 1995.

**DATES:** Submit either electronic or written comments on the draft guidance by December 23, 2022 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–2022–D–2170 for ''Topical Dermatologic Corticosteroids: In Vivo Bioequivalence.'' 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://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)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Susan Levine, Office of Generic Drugs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, Silver Spring, MD 20993–0002, 240–402–7936, *Susan.Levine@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Topical Dermatologic Corticosteroids: In Vivo Bioequivalence.'' This draft guidance is intended to assist applicants who submit ANDAs for topical corticosteroids. This draft guidance describes recommendations for an in vivo pharmacodynamic approach to demonstrate the bioequivalence of topical corticosteroids. When finalized, this guidance will replace FDA's 1995 guidance for industry of the same name.

This draft guidance provides recommendations for the study design, method qualification, data analysis, and data reporting for the pilot dose-duration vasoconstrictor response study and pivotal vasoconstrictor bioequivalence study used for topical corticosteroids. The draft guidance also discusses considerations and approaches for estimating key study parameters and sample size for the pivotal vasoconstrictor bioequivalence study.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Topical Dermatologic Corticosteroids: In Vivo Bioequivalence.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR 314 have been approved under OMB control number 0910–0001. The collections of information related to current good manufacturing practices have been approved under OMB control number 0910–0139. The collections of information pertaining to controlled correspondence related to generic drug development have been approved under OMB control number 0910–0797.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs*, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.regulations.gov.*

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23032 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1864]**

### Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in Abbreviated New Drug Applications; Draft Guidance for Industry, Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs.'' This draft guidance is intended to assist applicants who submit abbreviated new drug applications (ANDAs) for liquid-based and/or other semisolid products applied to the skin, including integumentary and mucosal (*e.g.,* vaginal) membranes (referred to as ''topical products''). This draft guidance document provides recommendations for physicochemical and structural (collectively, ''Q3'') characterizations that can be used to identify the dosage form of a proposed generic (test) topical product, and to describe properties of the drug product that may be critical to its performance (to support a demonstration of bioequivalence (BE)).

**DATES:** Submit either electronic or written comments on the draft guidance by December 23, 2022 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–2022–D–1864 for ''Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs.'' 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://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)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Susan Levine, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, Silver Spring, MD 20993–0002, 240–402–7936.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs.'' This draft guidance is intended to assist applicants who submit ANDAs for liquid-based and/or other semisolid products applied to the skin, including integumentary and mucosal (*e.g.,* vaginal) membranes. This draft guidance document provides recommendations for physicochemical and structural (collectively, ''Q3'') characterizations that can be used: (1) to identify the dosage form of a proposed generic (test) topical product and (2) to describe properties of the drug product that may be critical to its performance (to support a demonstration of BE). This draft guidance does not address Q3 characterization of topical products for purposes of product quality control.

Basic Q3 characterization of a topical product can be used to describe its dosage form (*e.g.,* an emulsion). The nomenclature used to describe the dosage form of topical products (*e.g.,* solutions, suspensions, gels, lotions, creams, shampoos, ointments, pastes, etc.) is not precisely defined by a systematic classification of the compositional, physicochemical, or structural attributes of the drug product. Consequently, for topical products, it may not be possible to infer the Q3 attributes of a particular dosage form based upon the dosage form nomenclature.

Comprehensive Q3 characterization of a topical product can be used to establish a detailed profile of Q3 attributes that specifically describes the nature of that product and identifies a collection of attributes that describe the arrangement of matter (*e.g.,* the polymorphic form(s) of the active ingredient(s) and/or the pH of the drug product) that may modulate the systemic or local availability of the active ingredient(s) from the product. Because Q3 characterization describes essential attributes of a drug product that may be critical to its performance, differences in Q3 attributes between a test product and the reference standard selected by FDA can indicate a risk that the differences may impact the respective bioavailability and/or BE of the two products. Conversely, a demonstration that there are no differences in Q3 attributes between a test and reference standard substantially mitigates the risk of potential failure modes for BE that may otherwise arise from any differences in Q3 attributes.

This draft guidance provides recommendations on the types of characterizations that constitute a basic and comprehensive Q3 characterization. This draft guidance also describes the concepts of ''sameness,'' ''similarity,'' and ''difference'' in comparing Q3 characterizations of two topical products, and how a showing of ''Q3 sameness,'' ''Q3 similarity,'' or ''Q3 difference'' between a test topical product and the reference standard may impact what additional evidence may be recommended to demonstrate BE, as part of a comparative product characterization-based approach.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if

it satisfies the requirements of the applicable statutes and regulations.

### II. Paperwork Reduction Act of 1995

While this draft guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information for the submission of ANDAs have been approved under OMB control number 0910–0001. Applicant submission of controlled correspondence related to generic drug development and FDA approval is approved under OMB control number 0910–0797. The collections of information that support Good Laboratory Practice (GLP) for Nonclinical Laboratory Studies have been approved under OMB control number 0910–0119. The collections of information in 21 CFR part 320 for ''Investigational New Drug Safety Reporting Requirements for Human Drug and Biological Products and Safety Reporting Requirements for Bioavailability and Bioequivalence Studies in Humans'' have been approved under OMB control number 0910–0014. The recordkeeping requirement for Current Good Manufacturing Practice (CGMP) sample retention in 21 CFR 211.170 has been approved under OMB control number 0910–0139.

### III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23016 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0134]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Mammography Quality Standards Act Requirements

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments (including recommendations) on the collection of information by November 23, 2022.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0309. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Mammography Quality Standards Act Requirements—21 CFR Part 900

*OMB Control Number 0910–0309—Extension*

The Mammography Quality Standards Act (Pub. L. 102–539) requires the establishment of a Federal certification and inspection program for mammography facilities; standards for accreditation and certification bodies for mammography facilities; and standards for mammography equipment, personnel, and practices, including quality assurance. Implementing regulations are found in part 900 (21 CFR part 900). The regulations are intended to assure safe, reliable, and accurate mammography on a nationwide level. Under the regulations, as a first step in becoming certified, mammography facilities must become accredited by an FDA-approved accreditation body (AB). This requires undergoing a review of their clinical images and providing the AB with information showing that they meet the equipment, personnel, quality assurance, and quality control standards, and have a medical reporting and recordkeeping program, a medical outcomes audit program, and a consumer complaint mechanism. On the basis of this accreditation, facilities are then certified by FDA or an FDA-approved State certification agency and must prominently display their certificate. These actions are taken to ensure safe, accurate, and reliable mammography on a nationwide basis.

FDA meets with its National Mammography Quality Assurance Advisory Committee (NMQAAC) for the purposes of advising FDA's mammography program on advances in mammography technology and procedures and on appropriate quality standards for mammography facilities. NMQAAC is made up of representatives of the mammography community, consumer and industry groups, and government. The meetings are open to the public and time is allotted for public statements on issues of concern in the mammography field. The chairperson may also call upon attendees to contribute to the committee discussions.

FDA also regularly meets or holds teleconferences with its approved accreditation bodies and State certification agencies to discuss issues of mutual concern. We also engage with the Conference of State Radiation Program Directors (CRCPD), a professional organization of State agencies concerned with radiation protection. The CRCPD has established a standing Mammography Committee, which meets with FDA mammography staff at least once a year.

Finally, in recent years, FDA mammography staff have met several times with representatives of manufacturers working on the new applications of digital technology in mammography to resolve problems preventing the making of that technology generally available. FDA mammography staff have also worked with representatives of the manufacturers to develop quality assurance manuals for full field digital mammography units.

In the **Federal Register** of August 8, 2022 (87 FR 48678), we published a notice soliciting public comment of the proposed information collection. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

| Activity/21 CFR section/FDA form No. | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours [1] |
|---|---|---|---|---|---|
| Notification of intent to become an AB—900.3(b)(1) | 0.33 | 1 | 0.33 | 1 | 1 |
| Application for approval as an AB; full [2]—900.3(b)(3) | 0.33 | 1 | 0.33 | 320 | 106 |
| Application for approval as an AB; limited [3]—900.3(b)(3). | 5 | 1 | 5 | 30 | 150 |
| AB renewal of approval—900.3(c) | 1 | 1 | 1 | 15 | 15 |
| AB application deficiencies—900.3(d)(2) | 0.1 | 1 | 0.1 | 30 | 3 |
| AB resubmission of denied applications—900.3(d)(5) | 0.1 | 1 | 0.1 | 30 | 3 |
| Letter of intent to relinquish accreditation authority—900.3(e). | 0.1 | 1 | 0.1 | 1 | 1 |
| Summary report describing all facility assessments—900.4(f). | 330 | 1 | 330 | 7 | 2,310 |
| AB reporting to FDA; facility [4]—900.4(h) | 8,718 | 1 | 8,718 | 1 | 8,718 |
| AB reporting to FDA; AB [5]—900.4(h) | 5 | 1 | 5 | 10 | 50 |
| AB financial records—900.4(i)(2) | 1 | 1 | 1 | 16 | 16 |
| Former AB new application—900.6(c)(1) | 0.1 | 1 | 0.1 | 60 | 6 |
| Reconsideration of accreditation following appeal—900.15(d)(3)(ii). | 1 | 1 | 1 | 2 | 2 |
| Application for alternative standard—900.18(c) | 2 | 1 | 2 | 2 | 4 |
| Alternative standard amendment—900.18(e) | 10 | 1 | 10 | 1 | 10 |
| Certification agency application—900.21(b) | 0.33 | 1 | 0.33 | 320 | 106 |
| Certification agency application deficiencies—900.21(c)(2). | 0.1 | 1 | 0.1 | 30 | 3 |
| Certification electronic data transmission—900.22(h) | 5 | 200 | 1,000 | 0.083 (5 minutes) | 83 |
| Changes to standards—900.22(i) | 2 | 1 | 2 | 30 | 60 |
| Certification agency minor deficiencies—900.24(b) | 1 | 1 | 1 | 30 | 30 |
| Appeal of adverse action taken by FDA—900.25(a) | 0.2 | 1 | 0.2 | 16 | 3 |
| Inspection fee exemption—FDA Form 3422 | 419 | 1 | 419 | 0.25 (15 minutes) | 105 |
| Total | | | | | 11,785 |

[1] Numbers have been rounded.
[2] One time burden.
[3] Refers to accreditation bodies applying to accredit specific full-field digital mammography units.
[4] Refers to the facility component of the burden for this requirement.
[5] Refers to the AB component of the burden for this requirement.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN

| Activity/21 CFR section | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours [1] |
|---|---|---|---|---|---|
| AB transfer of facility records—900.3(f)(1) | 0.1 | 1 | 0.1 | 0 | 1 |
| Consumer complaints system; AB—900.4(g) | 5 | 1 | 5 | 1 | 5 |
| Documentation of interpreting physician initial requirements—900.12(a)(1)(i)(B)(2). | 87 | 1 | 87 | 8 | 696 |
| Documentation of interpreting physician personnel requirements—900.12(a)(4). | 8,718 | 4 | 34,872 | 1 | 34,872 |
| Permanent medical record—900.12(c)(4) | 8,718 | 1 | 8,718 | 1 | 8,718 |
| Procedures for cleaning equipment—900.12(e)(13) | 8,718 | 52 | 453,336 | 0.083 (5 minutes) | 37,627 |
| Audit program—900.12(f) | 8,718 | 1 | 8,718 | 16 | 139,488 |
| Consumer complaints system; facility—900.12(h)(2) | 8,718 | 2 | 17,436 | 1 | 17,436 |
| Certification agency conflict of interest—900.22(a) | 5 | 1 | 5 | 1 | 5 |
| Processes for suspension and revocation of certificates—900.22(d). | 5 | 1 | 5 | 1 | 5 |
| Processes for appeals—900.22(e) | 5 | 1 | 5 | 1 | 5 |
| Processes for additional mammography review—900.22(f). | 5 | 1 | 5 | 1 | 5 |
| Processes for patient notifications—900.22(g) | 3 | 1 | 3 | 1 | 3 |
| Evaluation of certification agency—900.23 | 5 | 1 | 5 | 20 | 100 |
| Appeals—900.25(b) | 5 | 1 | 5 | 1 | 5 |
| Total | | | | | 238,971 |

[1] Total hours have been rounded.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN

| Activity/21 CFR section | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours [1] |
|---|---|---|---|---|---|
| Notification of facilities that AB relinquishes its accreditation—900.3(f)(2). | 0.1 | 1 | 0.1 | 200 | 20 |
| Clinical images; facility [2]—900.4(c), 900.11(b)(1), and 900.11(b)(2). | 2,885 | 1 | 2,885 | 1.44 | 4,154 |
| Clinical images; AB [3]—900.4(c) | 5 | 1 | 5 | 416 | 2,080 |
| Phantom images; facility [2]—900.4(d), 900.11(b)(1), and 900.11(b)(2). | 2,885 | 1 | 2,885 | 0.72 (43 minutes) | 2,077 |
| Phantom images; AB [3]—900.4(d) | 5 | 1 | 5 | 208 | 1,040 |
| Annual equipment evaluation and survey; facility [2]—900.4(e), 900.11(b)(1), and 900.11(b)(2). | 8,718 | 1 | 8,718 | 1 | 8,718 |
| Annual equipment evaluation and survey; AB [3]—900.4(e). | 5 | 1 | 5 | 1,730 | 8,650 |
| Provisional mammography facility certificate extension application—900.11(b)(3). | 0 | 1 | 0 | 0.5 (30 minutes) | 1 |
| Mammography facility certificate reinstatement application—900.11(c). | 281 | 1 | 281 | 5 | 1,405 |
| Lay summary of examination—900.12(c)(2) | 8,718 | 5,085 | 44,331,030 | 0.083 (5 minutes) | 3,679,475 |
| Lay summary of examination; patient refusal [4]—900.12(c)(2). | 87 | 1 | 87 | 0.5 (30 minutes) | 44 |
| Report of unresolved serious complaints—900.12(h)(4). | 20 | 1 | 20 | 1 | 20 |
| Information regarding compromised quality; facility [2]—900.12(j)(1). | 20 | 1 | 20 | 200 | 4,000 |
| Information regarding compromised quality; AB [3]—900.12(j)(1). | 20 | 1 | 20 | 320 | 6,400 |
| Patient notification of serious risk—900.12(j)(2) | 5 | 1 | 5 | 100 | 500 |
| Reconsideration of accreditation—900.15(c) | 5 | 1 | 5 | 2 | 10 |
| Notification of requirement to correct major deficiencies—900.24(a). | 0.4 | 1 | 0.4 | 200 | 80 |
| Notification of loss of approval; major deficiencies—900.24(a)(2). | 0.15 | 1 | 0.15 | 100 | 15 |
| Notification of probationary status—900.24(b)(1) | 0.3 | 1 | 0.3 | 200 | 60 |
| Notification of loss of approval; minor deficiencies—900.24(b)(3). | 0.15 | 1 | 0.15 | 100 | 15 |
| Total | | | | | 3,718,764 |

[1] Total hours have been rounded.
[2] Refers to the facility component of the burden for this requirement.
[3] Refers to the AB component of the burden for this requirement.
[4] Refers to the situation where a patient specifically does not want to receive the lay summary of her exam.

Respondents use the Mammography Program Reporting and Information System to submit information. Our estimated burden for the information collection reflects an overall increase of 28,664 hours and a corresponding increase of 9,137,449 responses/records. We attribute this adjustment to an increase in the number of submissions we received over the last few years. We do not include burden for §§ 900.12(c)(1) and (3), 900.3(f)(1), and 900.24(c) because if a certifying State had its approval withdrawn, FDA would take over certifying authority for the affected facilities. Because FDA already has all the certifying State's electronic records, we assume no additional reporting burden.

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23028 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–D–2101]**

### Human Gene Therapy for Neurodegenerative Diseases; Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Human Gene Therapy for Neurodegenerative Diseases; Guidance for Industry.'' Neurodegenerative diseases are a heterogeneous group of disorders characterized by progressive degeneration of the structure and function of the central nervous system or peripheral nervous system. The guidance document provides recommendations to sponsors developing human gene therapy (GT) products for neurodegenerative diseases affecting adult and pediatric patients. The guidance focuses on considerations for product development, preclinical testing, and clinical trial design. The guidance announced in this notice finalizes the draft guidance of the same title dated January 2021.

**DATES:** The announcement of the guidance is published in the **Federal Register** on October 24, 2022.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances 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–2020–D–2101 for ''Human Gene Therapy for Neurodegenerative Diseases; Guidance for Industry.'' 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://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)).

Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Phillip Kurs, 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.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a document entitled ''Human Gene Therapy for Neurodegenerative Diseases; Guidance for Industry.'' Neurodegenerative diseases are a heterogeneous group of disorders characterized by progressive degeneration of the structure and function of the central nervous system or peripheral nervous system. These diseases vary in etiology, prevalence, diagnosis, and management, and include genetic as well as age-related diseases. The guidance document provides recommendations to sponsors developing a GT product for neurodegenerative diseases affecting adult and pediatric patients. The guidance focuses on considerations for product development, preclinical testing, and clinical trial design.

In the **Federal Register** of January 6, 2021 (86 FR 549), FDA announced the availability of the draft guidance of the same title dated January 2021. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. Changes to the guidance include clarifications to the recommendations regarding use of tumorigenic cell lines, comparability studies, and crossover designs for clinical trials. In addition, editorial changes were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated January 2021.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Human Gene Therapy for Neurodegenerative Diseases.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 50 have been

approved under OMB control number 0910–0130; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; and the collections of information in the guidance entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' have been approved under OMB control number 0910–0765.

### III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23057 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2007–D–0369]**

## Product-Specific Guidances; Draft and Revised Draft Guidances for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific guidances for developing topical products applied to the skin, as well as integumentary and mucosal (*e.g.,* vaginal) membranes. The guidances provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website. The guidances identified in this notice were developed using the process described in that guidance.

**DATES:** Submit either electronic or written comments on the draft guidances by December 23, 2022 to ensure that the Agency considers your comment on these draft guidances before it begins work on the final versions of the guidances.

**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–2007–D–0369 for ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry.'' 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://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)).

Submit written requests for single copies of the draft guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance documents.

**FOR FURTHER INFORMATION CONTACT:** Christine Le, Center for Drug Evaluation and Research (HFD–880), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4714, Silver Spring, MD 20993–0002, 301–

796–2398 and/or *PSG-Questions@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific guidances and provide a meaningful opportunity for the public to consider and comment on those guidances. Under that process, draft guidances are posted on FDA's website and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final guidances or publishes revised draft guidances for comment. Guidances were last announced in the **Federal Register** on August 3, 2022 (87 FR 47425).

This notice announces new and revised draft product-specific guidances that are being posted on FDA's website concurrently with FDA's draft guidances for industry entitled ''Physicochemical and Structural (Q3) Characterization of Topical Drug Products Submitted in ANDAs,'' ''In Vitro Permeation Test Studies for Topical Drug Products Submitted in ANDAs,'' and ''In Vitro Release Test Studies for Topical Drug Products Submitted in ANDAs.'' FDA recommends that applicants consult the relevant product-specific guidance, in conjunction with the guidances referenced above, when considering the design and conduct of studies supporting an evaluation of BE for locally acting, liquid-based and/or other semisolid products applied to the skin, as well as integumentary and mucosal (*e.g.,* vaginal) membranes.

## II. Drug Products for Which New Draft Product-Specific Guidances Are Available

FDA is announcing the availability of new draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

| Active ingredient(s) |
|---|
| Abametapir |
| Acyclovir; Hydrocortisone |
| Betamethasone dipropionate; Calcipotriene |
| Fluorouracil |
| Halobetasol propionate |
| Nitroglycerin |
| Tazarotene |
| Tirbanibulin |

## III. Drug Products for Which Revised Draft Product-Specific Guidances Are Available

FDA is announcing the availability of revised draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

| Active ingredient(s) |
|---|
| Acyclovir (multiple reference listed drugs) |
| Adapalene (multiple reference listed drugs) |
| Adapalene; Benzoyl peroxide (multiple reference listed drugs) |
| Benzyl alcohol |
| Betamethasone dipropionate; Calcipotriene (multiple reference listed drugs) |
| Bexarotene |
| Butenafine hydrochloride (multiple reference listed drugs) |
| Calcipotriene (multiple reference listed drugs) |
| Clindamycin phosphate (multiple reference listed drugs) |
| Clindamycin phosphate; Tretinoin (multiple reference listed drugs) |
| Crisaborole |
| Crotamiton (multiple reference listed drugs) |
| Dapsone (multiple reference listed drugs) |
| Diclofenac sodium (multiple reference listed drugs) |
| Docosanol |
| Doxepin hydrochloride |
| Erythromycin |
| Fluocinolone acetonide |
| Fluorouracil (multiple reference listed drugs) |
| Gentamicin sulfate (multiple reference listed drugs) |
| Hydrocortisone |
| Ivermectin (multiple reference listed drugs) |
| Ketoconazole (multiple reference listed drugs) |
| Luliconazole |
| Metronidazole (multiple reference listed drugs) |
| Mupirocin |
| Mupirocin calcium |
| Nystatin (multiple reference listed drugs) |
| Nystatin; Triamcinolone acetonide (multiple reference listed drugs) |
| Oxymetazoline hydrochloride |
| Ozenoxacin |
| Penciclovir |
| Pimecrolimus |
| Podofilox |
| Silver sulfadiazine |
| Spinosad |
| Tacrolimus (multiple reference listed drugs) |
| Tazarotene (multiple reference listed drugs) |
| Tretinoin (multiple reference listed drugs) |
| Triamcinolone acetonide (multiple reference listed drugs) |

For a complete history of previously published **Federal Register** notices related to product-specific guidances, go to *https://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on, among other things, the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## III. Paperwork Reduction Act of 1995

FDA tentatively concludes that these draft guidances contain no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## IV. Electronic Access

Persons with access to the internet may obtain the draft guidances at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23015 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**[Docket No. FDA–2022–D–1862]**

## In Vitro Permeation Test Studies for Topical Products Submitted in Abbreviated New Drug Applications; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''In Vitro Permeation Test Studies for Topical Products Submitted in ANDAs.'' This draft guidance document provides recommendations for in vitro permeation test (IVPT) studies for locally acting liquid-based and/or other semisolid topical products. This draft guidance is intended to assist applicants who are submitting abbreviated new drug applications (ANDAs) for such products by providing recommendations for IVPT studies, which can be used to support a demonstration that two topical products are bioequivalent.

**DATES:** Submit either electronic or written comments on the draft guidance by December 23, 2022 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–2022–D–1862 for ''In Vitro Permeation Test Studies for Topical Products Submitted in ANDAs.'' 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://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)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Susan Levine, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, Silver Spring, MD 20993–0002, 240–402–7936.

**SUPPLEMENTARY INFORMATION:**

### I. Background

FDA is announcing the availability of a draft document entitled ''In Vitro Permeation Test Studies for Topical Products Submitted in ANDAs.'' This draft guidance document provides recommendations on IVPT studies for locally acting liquid-based and/or other semisolid topical products. This draft guidance is intended to assist applicants who are submitting ANDAs for such products by providing recommendations for IVPT studies, which can support a demonstration that two topical products are bioequivalent.

Once validated, an IVPT study may be used to assess the rate and extent to which an active ingredient from a topical product becomes available at or near a site of action in the skin and may be used to characterize and compare the rate and extent of bioavailability for a drug from a test topical product and the reference standard. This draft guidance focuses on general considerations and recommendations for the method development, method validation, and conduct of IVPT studies that are submitted in ANDAs and intended to support a demonstration of bioequivalence.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''In Vitro Permeation Test Studies for Topical Products Submitted in ANDAs.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information for the submission of ANDAs have been approved under OMB control number 0910–0001. Applicant submission of controlled correspondence related to generic drug development and FDA approval is approved under OMB control number 0910–0797. The collections of information that support Good Laboratory Practice for Non-Clinical Laboratory Studies have been approved under OMB control number 0910–0119. The collections of information in part 320 for ''Investigational New Drug Safety Reporting Requirements for Human Drug and Biological Products and Safety Reporting Requirements for Bioavailability and Bioequivalence Studies in Humans'' have been approved under OMB control number 0910–0014. The recordkeeping requirement for CGMP sample retention in 21 CFR 211.170 has been approved under OMB control number 0910–0139.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23018 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1859]**

### In Vitro Release Test Studies for Topical Products Submitted in Abbreviated New Drug Applications; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''In Vitro Release Test Studies for Topical Products Submitted in ANDAs.'' This draft guidance provides recommendations for in vitro release test (IVRT) studies for locally acting liquid-based and/or other semisolid topical products. This draft guidance is intended to assist applicants who are submitting abbreviated new drug applications (ANDAs) for such products, by providing recommendations for IVRT studies, which can be used to support a demonstration that two topical products are bioequivalent.

**DATES:** Submit either electronic or written comments on the draft guidance by December 23, 2022 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–2022–D–1859 for ''In Vitro Release Test Studies for Topical Products Submitted in ANDAs.'' 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://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)).

Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Susan Levine, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, Silver Spring, MD 20993–0002, 240–402–7936.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''In Vitro Release Test Studies for Topical Products Submitted in ANDAs.'' This draft guidance provides recommendations on IVRT studies for locally acting liquid-based and/or other semisolid topical products. This draft guidance is intended to assist applicants who are submitting ANDAs for such products, by providing recommendations for IVRT studies, which can be used to support a demonstration that two topical products are bioequivalent.

Once validated, an IVRT study may also be useful in controlling product quality and/or establishing acceptability of post-approval manufacturing changes. This draft guidance focuses on general considerations and recommendations for the method development, method validation, and conduct of IVRT studies that are submitted in ANDAs and intended to support a demonstration of bioequivalence.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''In Vitro Release Test Studies for Topical Products Submitted in ANDAs.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information for the submission of ANDAs have been approved under OMB control number 0910–0001. Applicant submission of controlled correspondence related to generic drug development and FDA approval is approved under OMB control number 0910–0797. The collections of information that support ''Good Laboratory Practice (GLP) for Non-Clinical Laboratory Studies'' have been approved under OMB control number 0910–0119. The collections of information in 21 CFR part 320 for ''Investigational New Drug Safety Reporting Requirements for Human Drug and Biological Products and Safety Reporting Requirements for Bioavailability and Bioequivalence Studies in Humans'' have been approved under OMB control number 0910–0014. The recordkeeping requirement for CGMP sample retention in 21 CFR 211.170 has been approved under OMB control number 0910–0139.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: October 18, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–23017 Filed 10–21–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Announcement of Solicitation of Written Comments on Proposed Healthy People 2030 Objectives

**AGENCY:** Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary of Health, Office of Disease Prevention and Health Promotion.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Health and Human Services (HHS) solicits written comments on an additional objective proposed to be added to Healthy People 2030, and written comments from the public proposing additional new core, developmental, or research objectives to be included in Healthy People 2030. Public comment informed the development of Healthy People 2030. HHS will provide opportunities for public input periodically throughout the decade to ensure Healthy People 2030 reflects current public health priorities and public input. The updated set of Healthy People 2030 objectives will be incorporated on *https://health.gov/healthypeople.* This updated set will reflect further review and deliberation by federal Healthy People topic area workgroups, the Federal Interagency Workgroup on Healthy People 2030, and other federal subject matter experts.

**DATES:** Written comments will be accepted through 11:59 p.m. ET, December 2, 2022.

**ADDRESSES:** Written comments should be submitted by email to *HP2030Comment@hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dana Rosenberg, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 420, Rockville, MD 20852; Email: *HP2030@hhs.gov;* Phone: 240–453–6092.

**SUPPLEMENTARY INFORMATION:** Since 1980, Healthy People has provided a comprehensive set of national health promotion and disease prevention objectives with 10-year targets aimed at improving the health of all. Healthy People 2030 objectives present a picture of the nation's health at the beginning of the decade, establish national goals and targets to be achieved by the year 2030, and monitor progress over time. The U.S. Department of Health and Human Services (HHS) is soliciting the submission of written comments regarding one core objective proposed to be added to Healthy People 2030. The

public is also invited to submit proposals for additional new core, developmental, or research objectives that meet the criteria outlined below.

Healthy People 2030 is the product of an extensive collaborative process that relies on input from a diverse array of individuals and organizations, both within and outside the federal government, with a common interest in improving the nation's health. Public comments are a cornerstone of Healthy People 2030. During the development of Healthy People 2030, HHS asked for the public's comments to help shape the initiative's framework (vision, mission, and overarching goals) and its objectives. HHS plans to periodically seek public comment to ensure Healthy People 2030 remains relevant and reflects emerging public health issues.

The public now is invited to comment on one new core objective proposed to be added to Healthy People 2030. This new objective was developed by federal subject matter experts, approved by the Healthy People Federal Interagency Workgroup and is presented for the public's review and comment. The objective is:

1. Social Determinants of Health-NEW–07: Increase the proportion of the voting age citizens who vote. Data Source: Current Population Survey (CPS), U.S. Census Bureau and the U.S. Bureau of Labor Statistics (BLS).

The public is also invited to propose additional core, developmental, or research objectives for consideration that address critical public health issues. Proposed new objectives must meet all the objective selection criteria (see below).

**Objective Selection Criteria**

*Core Objectives*

Core objectives must meet the following 5 criteria to be included in Healthy People 2030. Core objectives should (1) have a reliable, nationally representative data source with baseline data no older than 2015; (2) have at least 2 additional data points beyond the baseline during the decade; (3) be of national importance; (4) have effective, evidence-based interventions available to achieve the objective; and (5) have data to help address disparities and achieve health equity.

*Developmental Objectives*

Developmental objectives will have the following characteristics: (1) represent high priority issues; (2) do not have reliable baseline data yet; and (3) have evidence-based interventions available.

*Research Objectives*

Research objectives will have the following characteristics: (1) represent key opportunities to make progress in areas with limited prior research, a high health or economic burden, or significant disparities between population groups; (2) may or may not have reliable baseline data; and (3) do not have evidence-based interventions available.

Written comments and evidence-based information should be submitted by email to *HP2030Comment@hhs.gov* by 11:59 p.m. ET on December 2, 2022. Comments received in response to this notice will be reviewed and considered by the Healthy People topic area workgroups, Federal Interagency Workgroup on Healthy People 2030, and other federal subject matter experts.

**Paul Reed,**

*RDML, U.S. Public Health Service, Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.*

[FR Doc. 2022–22983 Filed 10–21–22; 8:45 am]

**BILLING CODE 4150–32–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) 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; Small Business: Digestive Sciences.

*Date:* November 18, 2022.

*Time:* 8:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Ganesan Ramesh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 827–5467, *ganesan.ramesh@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Substance Use, Risks, Mechanisms, and Outcomes.

*Date:* November 18, 2022.

*Time:* 9:30 a.m. to 7:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Izabella Zandberg, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–0359, *izabella.zandberg@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegenerative Disorders.

*Date:* November 18, 2022.

*Time:* 11:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Roger Alan Bannister, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1010–D, Bethesda, MD 20892, (301) 435–1042, *bannisterra@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Auditory System, Cognition and Memory.

*Date:* November 21, 2022.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Pablo Miguel Blazquez Gamez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *pablo.blazquezgamez@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA–RM–22–015: IND-enabling Studies of Somatic Genome Editing Therapeutic Leads.

*Date:* November 21–22, 2022.

*Time:* 9:00 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Christopher Payne, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–3702, *christopher.payne@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Cell and Molecular Biology.

*Date:* November 21–22, 2022.

*Time:* 9:30 a.m. to 8:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Megan Lynne Goodall, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8334, *megan.goodall@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery and Development.

*Date:* November 21–22, 2022.

*Time:* 10:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sergei Ruvinov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1180, *ruvinser@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Biology of the Eye.

*Date:* November 21, 2022.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Jimok Kim, Ph.D., Scientific Review Officer, Center for Scientific Review, 6107 Rockledge Drive, Bethesda, MD 20892, (301) 402–8559, *jimok.kim@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology, Biochemistry, and Aging.

*Date:* November 21, 2022.

*Time:* 12:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kevin Czaplinski, Ph.D., Scientific Review Officer, Center for Scientific Review, 6901 Rockledge Drive, Bethesda, MD 20892, (301) 480–9139, *czaplinskik2@csr.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: October 19, 2022.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–23066 Filed 10–21–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Early Detection Research Network: Clinical Validation Centers (U01) and Biomarker Characterization Centers (U2C).

*Date:* November 16, 2022.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W260, Rockville, Maryland 20850 (Telephone Conference Call).

*Contact Person:* Robert F. Gahl, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9606 Medical Center Drive, Room 7W260, Rockville, Maryland 20850, 240–276–7869, *robert.gahl@nih.gov.*

*Name of Committee:* National Cancer Institute Special Emphasis Panel; A data resource for blood and marrow transplants and adoptive cellular therapy research.

*Date:* November 17, 2022.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Telephone Conference Call).

*Contact Person:* Delia Tang, M.D., Scientific Review Officer, Resources Training and Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov.*

*Name of Committee:* National Cancer Institute Initial Review Group; Cancer Centers Study Section (A).

*Date:* December 1–2, 2022.

*Time:* 10:30 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850 (Telephone Conference Call).

*Contact Person:* Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850, 240–276–6442, *ss537t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 19, 2022.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–23068 Filed 10–21–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under Office of Management and Budget (OMB) review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, email or call the SAMHSA Reports Clearance Officer at *carlos.graham@samhsa.hhs.gov* or (240) 276–0361.

**Proposed Project: Program Evaluation for Prevention Contract (PEPC)—Strategic Prevention Framework for Prescription Drugs (SPF-Rx) Evaluation (OMB No. 0930–0377)—Revision**

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Behavioral Health Statistics and Quality (CBHSQ) aims to complete a cross-site evaluation of SAMHSA's Strategic Prevention Framework for Prescription Drugs (SPF-Rx). SPF-Rx is designed to address nonmedical use of prescription drugs as well as opioid overdoses by raising awareness about the dangers of sharing medications and by working with pharmaceutical and medical communities on the risks of overprescribing. The SPF-Rx program aims to promote collaboration between

states/tribes and pharmaceutical and medical communities to understand the risks of overprescribing to youth ages 12–17 and adults 18 years of age and older. The program also aims to enhance capacity for, and access to, Prescription Drug Monitoring Program (PDMP) data for prevention purposes. This request for data collection includes a revision from previously approved OMB instruments.

The SPF-Rx program's indicators of success are reductions in opioid overdoses, reductions in prescription drug misuse, and improved use of PDMP data. Data collected through the tools described in this statement will be used for the national cross-site evaluation of SAMHSA's SPF-Rx program. This package covers continued data collection through 2025. The Program Evaluation for Prevention Control (PEPC) team will systematically collect and maintain an Annual Reporting Tool (ART) and Grantee and Community Level Outcomes data modules submitted by SPF-Rx grantees through the online Data Management System (DMS).

SAMHSA is requesting approval for data collection for the SPF-Rx cross-site evaluation with the following instruments:

- *Annual Reporting Tool (ART)*—The ART is a survey instrument collected yearly to monitor state, tribal entity, and community-level performance, and to evaluate the effectiveness of the SPF-Rx program. This tool is completed by grantees and subrecipient community project directors and provides process data related to funding use and effectiveness, organizational capacity, collaboration with community partners, data infrastructure, planned intervention targets, intervention implementation, evaluation, contextual factors, training and technical assistance (T/TA) needs, and sustainability.
- *Grantee-and Community-Level Outcomes Modules*—These modules collect data on key SPF-Rx program outcomes, including opioid prescribing patterns and provider use of PDMP. Grantees will provide outcomes data at the grantee level for their state, tribal area, or jurisdiction, as well as at the community level for each of their subrecipient communities.
- *Grantee-Level Interview*—This qualitative interview will be administered at the end of the evaluation to obtain information from the grantee project directors on their programs, staffing, populations of focus, infrastructure, capacity, lessons learned, and collaboration.

ANNUALIZED DATA COLLECTION BURDEN BY YEAR

| Instrument | Number of respondents | Responses per respondent | Total number of responses | Hours per response | Total burden hours |
|---|---|---|---|---|---|
| Annual Reporting Tool | [a] 110 | 1 | 110 | 4 | 440 |
| | [b] 21 | 1 | 21 | 3 | 63 |
| Grantee-Level PDMP Outcomes Module | [b] 21 | 1 | 21 | 2.5 | 52.5 |
| Community-Level PDMP Outcomes Module | [b] 21 | 5.2 | 110 | 1.25 | 137.5 |
| Grantee-Level Interview | [b] 21 | 1 | 21 | 1.5 | 31.5 |
| FY2023 | 131 | | 283 | | 724.5 |
| Annual Reporting Tool | [a] 110 | 1 | 110 | 4 | 440 |
| | [b] 21 | 1 | 21 | 3 | 63 |
| Grantee-Level PDMP Outcomes Module | [b] 21 | 1 | 21 | 2.5 | 52.5 |
| Community-Level PDMP Outcomes Module | [b] 21 | 5.2 | 110 | 1.25 | 137.5 |
| Grantee-Level Interview | [b] 0 | N/A | N/A | 1.5 | N/A |
| FY2024 | 131 | | 283 | | 693 |
| Annual Reporting Tool | [a] 110 | 1 | 110 | 4 | 440 |
| | [b] 21 | 1 | 21 | 3 | 63 |
| Grantee-Level PDMP Outcomes Module | [b] 21 | 1 | 21 | 2.5 | 52.5 |
| Community-Level PDMP Outcomes Module | [b] 21 | 5.2 | 110 | 1.25 | 137.5 |
| Grantee-Level Interview | [b] 21 | 1 | 21 | 1.5 | 31.5 |
| FY2025 | 131 | | 283 | | 724.5 |

[a] Community subrecipient respondent.
[b] Grantee respondent.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**Carlos Graham,**

*Reports Clearance Officer.*

[FR Doc. 2022–23054 Filed 10–21–22; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

**[Docket No. TSA–2018–0001]**

### Surface Transportation Security Advisory Committee (STSAC) Meeting

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** Committee management; Notice of Federal Advisory Committee public meeting.

**SUMMARY:** The Transportation Security Administration (TSA) will hold a meeting of the Surface Transportation Security Advisory Committee (STSAC) on November 17, 2022. Members of the STSAC will meet in person at the TSA Headquarters. A link to virtually participate in the meeting will be available to members of the public as discussed below under **SUPPLEMENTARY INFORMATION**/Public Participation. An agenda for the meeting can also be found under **SUPPLEMENTARY INFORMATION**.

**DATES:** The meeting will take place on Thursday, November 17, 2022. The meeting will begin at 12 p.m. and will adjourn at 4 p.m. Eastern Standard Time. As listed in the Public Participation section below, requests to attend the meeting, to address the STSAC, and/or for accommodations because of a disability, must be received by November 14, 2022.

**ADDRESSES:** The in-person meeting for STSAC members will be held at the TSA Headquarters, located at 6595 Springfield Center Drive, Springfield, Virginia 20598. Members of the public will be able to participate virtually via WebEx. See Public Participation below for information on how to register to attend the meeting. Attendance information will be provided upon registration.

**FOR FURTHER INFORMATION CONTACT:** Judith Harroun-Lord, Surface Transportation Security Advisory Committee, Designated Federal Officer, U.S. Department of Homeland Security, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, Virginia 20598, *STSAC@tsa.dhs.gov,* 571–227–2283.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

TSA is providing notice of this meeting in accordance with section 1969 of the TSA Modernization Act, Division K of the FAA Reauthorization Act of 2018, Public Law 115–254 (132 Stat. 3186; Oct. 5, 2018), codified at 6 U.S.C. 204. The STSAC advises, consults with, reports to, and makes recommendations to the TSA Administrator on surface transportation security matters, including the development, refinement, and implementation of policies, programs, initiatives, rulemakings, and security directives pertaining to surface transportation security. The STSAC also considers risk-based security approaches in the performance of its duties. While the STSAC is exempt from the Federal Advisory Committee Act (5 U.S.C. App.), *see* 6 U.S.C. 205(f), paragraph 204(c)(6)(B) requires that TSA hold at least one public meeting each year.

**II. Meeting Agenda**

- Welcoming Remarks/Introductions
- Committee and Subcommittee briefings on activities, key issues, and focus areas for FY 2023—Cybersecurity Information Sharing; Emergency Management and Resiliency; Insider Threat; and Security Risk and Intelligence
- Public Comments
- Closing Comments and Adjournment

**III. Public Participation**

The meeting will be open to the public via WebEx. Members of the public, all non-STSAC members, and non-TSA staff who wish to participate, must register via email by submitting their name, contact number, and affiliation to *STSAC@tsa.dhs.gov* by November 14, 2022. Attendance may be limited due to WebEx meeting constraints. Attendees will be admitted on a first-to-register basis. Attendance information will be provided upon registration.

Members of the public wishing to present oral or written statements must make advance arrangements by November 14, 2022. The statements must specifically address issues pertaining to the items listed in Meeting Agenda discussed above; requests must be submitted via email to *STSAC@tsa.dhs.gov.* Speakers are required to limit their comments to three minutes.

The STSAC and TSA are committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by November 14, 2022.

Dated October 18, 2022.

**Eddie D. Mayenschein,**

*Assistant Administrator, Policy, Plans, and Engagement (PPE).*

[FR Doc. 2022–23023 Filed 10–21–22; 8:45 am]

**BILLING CODE 9110–05–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0123]**

### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Provisional Unlawful Presence Waiver

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

**DATES:** Comments are encouraged and will be accepted until November 23, 2022.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2012–0003. All submissions received must include the OMB Control Number 1615–0123 in the body of the letter, the agency name and Docket ID USCIS–2012–0003.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

**SUPPLEMENTARY INFORMATION:**

**Comments**

The information collection notice was previously published in the **Federal Register** on July 08, 2022, at 87 FR 40856, allowing for a 60-day public comment period. USCIS did receive three comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2012–0003. in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public

viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Provisional Unlawful Presence Waiver.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–601A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Individuals or households. Section 212(a)(9)(B)(i)(I) and (II) of the Immigration and Nationality Act (INA or the Act) provides for the inadmissibility of certain individuals who have accrued unlawful presence in the United States. There is also a waiver provision incorporated into section 212(a)(9)(B)(v) of the Act, which allows the Secretary of Homeland Security to exercise discretion to waive the unlawful presence grounds of inadmissibility on a case-by-case basis. The information collected from an applicant on an Application for Provisional Unlawful Presence Waiver of Inadmissibility, Form I–601A, is necessary for U.S. Citizenship and Immigration Services (USCIS) to determine not only whether the applicant meets the requirements to participate in the streamlined waiver process provided by regulation, but also whether the applicant is eligible to receive the provisional unlawful presence waiver.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–601A is 63,000 and the estimated hour burden per response is 1.5 hours. The estimated total number of respondents for the collection of biometrics is 63,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 168,210 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $3,212,390.

Dated: October 19, 2022.

**Samantha L. Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2022–23080 Filed 10–21–22; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0120]**

### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Free Training for Civics and Citizenship Teachers of Adults; Civics and Citizenship Toolkit

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

**DATES:** Comments are encouraged and will be accepted until November 23, 2022.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2011–0001. All submissions received must include the OMB Control Number 1615–0120 in the body of the letter, the agency name and Docket ID USCIS–2011–0001.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

**SUPPLEMENTARY INFORMATION:**

**Comments**

The information collection notice was previously published in the **Federal Register** on July 13, 2022, at 87 FR 41735, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2011–0001 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is

offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Free Training for Civics and Citizenship of Adults; Civics and Citizenship Toolkit.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1190, G–1515; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This information is necessary to register for civics and citizenship of adults training and to obtain a civics and citizenship toolkit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form G–1190 is 2,500 and the estimated hour burden per response is 0.083 hours. The estimated total number of respondents for the information collection Form G–1515 is 1,200 and the estimated hour burden per response is responses is 0.166 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 407 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. The registration occurs electronically which eliminates any cost for postage, and no other costs are incurred by the respondent.

Dated: October 19, 2022.

**Samantha L. Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2022–23079 Filed 10–21–22; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

**[Docket No. BOEM–2022–0064]**

### Notice of Availability of the Proposed Notice of Sale for Gulf of Mexico Outer Continental Shelf Region-Wide Oil and Gas Lease Sale 259

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The Bureau of Ocean Energy Management (BOEM) announces the availability of the Proposed Notice of Sale (NOS) for the proposed Gulf of Mexico (GOM) Region-wide Outer Continental Shelf (OCS) Oil and Gas Lease Sale 259 (GOM Lease Sale 259). GOM Lease Sale 259 is required to be held by the Inflation Reduction Act of 2022. BOEM is publishing this notice pursuant to its regulatory authority. Regarding oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the Outer Continental Shelf Lands Act, provides governors of affected states and the executive of any affected local government the opportunity to review and comment on the Proposed NOS. The Proposed NOS describes the proposed size, timing, and location of the sale, including lease stipulations, terms and conditions, minimum bids, royalty rates, and rental rates.

**DATES:** Governors of affected states and the executive of any affected local government may comment on the size, timing, and location of proposed GOM Lease Sale 259 within 60 days following their receipt of the Proposed NOS. BOEM will publish the Final NOS in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for March 29, 2023.

**ADDRESSES:** The Proposed NOS for GOM Lease Sale 259 and Proposed NOS Package containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, 70123–2394; telephone: (504) 736–2519. The Proposed NOS and Proposed NOS Package also are available for downloading or viewing on BOEM's website at *http://www.boem.gov/Sale-259/.*

**FOR FURTHER INFORMATION CONTACT:** Bridgette Duplantis, Acting Chief, Leasing and Financial Responsibility, Office of Leasing and Plans, 504–736–7502, *bridgette.duplantis@boem.gov* or Andrew Krueger, Chief, Sales Coordination Branch, Office of Strategic Recourses, 703–787–1554, *andrew.krueger@boem.gov.*

*Authority:* This notice of sale is published pursuant to 43 U.S.C. 1331 *et seq.* (Outer Continental Shelf Lands Act, as amended) and 30 CFR 556.304(c).

**Amanda Lefton,**

*Director, Bureau of Ocean Energy Management.*

[FR Doc. 2022–22886 Filed 10–21–22; 8:45 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–638 (Fifth Review)]**

### Stainless Steel Wire Rod From India; Scheduling of an Expedited Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on stainless steel wire rod from India would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

**DATES:** August 5, 2022.

**FOR FURTHER INFORMATION CONTACT:** Julie Duffy (202–708–2579), 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 August 5, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 25671, May 2, 2022) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

*Staff report.*—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for this review on November 14, 2022. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

*Written submissions.*—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before November 21, 2022 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to this review by November 21, 2022. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Determination.*—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

*Authority:* This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: October 18, 2022.

**Jessica Mullan,**

*Attorney Advisor.*

[FR Doc. 2022–22997 Filed 10–21–22; 8:45 am]

**BILLING CODE 7020–02–P**

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response filed on behalf of Carpenter Technology Corporation, North American Stainless, and Universal Stainless & Alloy Products, Inc., domestic producers, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–1339]**

### Certain Smart Thermostat Hubs, Systems Containing the Same, and Components of the Same; Institution of Investigation

**AGENCY:** International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 16, 2022, under the Tariff Act of 1930, as amended, on behalf of EDST, LLC of Lubbock, Texas and Quext IoT, LLC of Lubbock, Texas. The complaint was supplemented on September 22, and October 5, 2022. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain smart thermostat hubs, systems containing the same, and components of the same by reason of the infringement of certain claims of U.S. Patent No. 10,825,273 (''the '273 patent''); U.S. Patent No. 10,803,685 (''the '685 patent''); and U.S. Patent No. 11,189,118 (''the '118 patent''). The complaint, as supplemented, further alleges that an industry in the United States exists, or is in the process of being established, as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jessica Mullan, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

**SUPPLEMENTARY INFORMATION:**

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2022).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on October 18, 2022, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as

amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 5–11, 14, 15, 17, 18, 20, 21, 23, 25, 26, 28, 29, 31, and 33 of the '273 patent and claims 1, 2, 5–11, 14, 15, 17, 18, 20, 22, and 23 of the '685 patent; claims 1–6, 8–10, and 11–19 of the '118 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''(1) certain smart thermostat devices that serve as in-unit hubs for the remote control of smart door locks, (2) systems including those smart thermostat devices, and (3) internal circuity, printed circuit boards, and communication components for those smart thermostat devices.'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

EDST, LLC, 5214 68th Street, Suite 402, Lubbock, TX 79424

Quext IoT, LLC, 5214 68th Street, Suite 201, Lubbock, TX 79424

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

iApartments, Inc.,201 E Kennedy Blvd., Suite 1925, Tampa, FL 33602

Hsun Wealth Technology Co., Ltd., 11th Floor, No. 47, Qingpu, Qingpu Village, Zhongli District, Taoyuan City, 32056, Taiwan

Huarifu Technology Co., Ltd., 11th Floor, No. 49, Section 1, Qingfeng Road, Zhongli District, Taoyuan City, 32056, Taiwan

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge. The Office of Unfair Import Investigations will not be participating as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: October 18, 2022.

**Jessica Mullan,**

*Attorney Advisor.*

[FR Doc. 2022–22998 Filed 10–21–22; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–557 and 731–TA–1312 (Review)**

## Stainless Steel Sheet and Strip From China

### Determination

On the basis of the record [1] 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 duty and countervailing duty orders on imports of stainless steel sheet and strip 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 March 1, 2022 (87 FR 11478) and determined on June 6, 2022 that it would conduct expedited reviews (87 FR 56444, September 14, 2022).

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 October 18, 2022. The views of the Commission are contained in USITC Publication 5376 (October 2022), entitled *Stainless Steel Sheet and Strip from China: Investigation Nos. 701–TA–557 and 731–TA–1312 (Review).*

By order of the Commission.

Issued: October 18, 2022.

**Jessica Mullan,**

*Attorney Advisor.*

[FR Doc. 2022–22999 Filed 10–21–22; 8:45 am]

**BILLING CODE 7020–02–P**

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–558 and 731–TA–1316 (Review)]**

## 1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) From China; Scheduling of Expedited Five-Year Reviews

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the countervailing and antidumping duty orders on 1-hydroxyethylidene-1, 1-diphosphonic acid (HEDP) from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

**DATES:** July 5, 2022.

**FOR FURTHER INFORMATION CONTACT:** Andres Andrade (202–205–2078), 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 these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On July 5, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 19125, April 1, 2022) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

*Staff report.*—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on October 19, 2022. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

*Written submissions.*—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before October 26, 2022 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to these reviews by October 26, 2022. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Determination.*—The Commission has determined these reviews are 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:* These reviews are 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: October 18, 2022.

**Jessica Mullan,**

*Attorney Advisor.*

[FR Doc. 2022–23000 Filed 10–21–22; 8:45 am]

**BILLING CODE 7020–02–P**

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the response submitted by Compass Chemical International, LLC, a domestic producer, to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1103]**

### 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 November 23, 2022. Such persons may also file a written request for a hearing on the application on or before November 23, 2022.

**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 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.34(a), this is notice that on September 20, 2022, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106–9032, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Psilocybin | 7437 | I |
| Marihuana Extract | 7350 | I |
| Methylphenidate | 1724 | II |
| Levorphanol | 9220 | II |
| Noroxymorphone | 9668 | II |
| Tapentadol | 9780 | II |

The company plans to import the listed controlled substances for 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.

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–23051 Filed 10–21–22; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 1038]**

### Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Morrison Newfound Valley Manufacturing

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to its regulations governing the program of growing marihuana for scientific and medical research under DEA registration.

**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 December 23, 2022.

**ADDRESSES:** DEA 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:** The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may submit electronic comments on or objections of the requested registration, as provided in this notice. This notice does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (APIs) for product development and distribution to DEA registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA will conduct this evaluation in the manner described in the rule published at 85 FR 82333 on December 18, 2020, and reflected in DEA regulations at 21 CFR part 1318.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on February 18, 2022, Morrison Newfound Valley Manufacturing, 262 Morrison Road, Bristol, New Hampshire 03222, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Marihuana | 7360 | I |

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–23053 Filed 10–21–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1087]**

### Bulk Manufacturer of Controlled Substances Application: Bulk Manufacturer of Marihuana: Rocky Mountain Biotech, LLC

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** The Drug Enforcement Administration (DEA) is providing notice of an application it has received from an entity applying to be registered to manufacture in bulk basic class(es) of controlled substances listed in schedule I. DEA intends to evaluate this and other pending applications according to its regulations governing the program of growing marihuana for scientific and medical research under DEA registration.

**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 December 23, 2022.

**ADDRESSES:** DEA 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:** The Controlled Substances Act (CSA) prohibits the cultivation and distribution of marihuana except by persons who are registered under the CSA to do so for lawful purposes. In accordance with the purposes specified in 21 CFR 1301.33(a), DEA is providing notice that the entity identified below has applied for registration as a bulk manufacturer of schedule I controlled substances. In response, registered bulk manufacturers of the affected basic class(es), and applicants therefor, may submit electronic comments on or objections of the requested registration, as provided in this notice. This notice

does not constitute any evaluation or determination of the merits of the application submitted.

The applicant plans to manufacture bulk active pharmaceutical ingredients (API) for product development and distribution to DEA registered researchers. If the application for registration is granted, the registrant would not be authorized to conduct other activity under this registration aside from those coincident activities specifically authorized by DEA regulations. DEA will evaluate the application for registration as a bulk manufacturer for compliance with all applicable laws, treaties, and regulations and to ensure adequate safeguards against diversion are in place.

As this applicant has applied to become registered as a bulk manufacturer of marihuana, the application will be evaluated under the criteria of 21 U.S.C. 823(a). DEA will conduct this evaluation in the manner described in the rule published at 85 FR 82333 on December 18, 2020, and reflected in DEA regulations at 21 CFR part 1318.

In accordance with 21 CFR 1301.33(a), DEA is providing notice that on September 1, 2022, Rocky Mountain Biotech, LLC, 4740 Dillon Drive, Pueblo, Colorado 81008–2112, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Marihuana ..... | 7360 | I |

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–23050 Filed 10–21–22; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1104]**

### Importer of Controlled Substances Application: Nexus Pharmaceuticals, Inc.

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** Nexus Pharmaceuticals, 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 November 23, 2022. Such persons may also file a written request for a hearing on the application on or before November 23, 2022.

**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 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.34(a), this is notice that on September 19, 2022, 10300 128th Avenue, Pleasant Prairie, Wisconsin 53158–7336, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Remifentanil ..... | 9739 | II |

The company plans to import the listed controlled substance for research and analytical testing purposes. 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.

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–23052 Filed 10–21–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1105]**

### Bulk Manufacturer of Controlled Substances Application: Benuvia Manufacturing, Inc.

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** Benuvia Manufacturing 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 December 23, 2022. Such persons may also file a written request for a hearing on the application on or before December 23, 2022.

**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 August 12, 2022, Benuvia Manufacturing Inc., 3950 North Mays Street, Round Rock, Texas 78665, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Tetrahydrocannabinols | 7370 | I |
| 3,4-Methylenedioxyamphetamine | 7400 | I |
| 3,4-Methylenedioxymethamphetamine | 7405 | I |
| 5-Methoxy-N-N-dimethyltryptamine | 7431 | I |
| Dimethyltryptamine | 7435 | I |
| Psilocybin | 7437 | I |
| Psilocyn | 7438 | I |
| 5-Methoxy-N,N-diisopropyltryptamine | 7439 | I |

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. In reference to drug codes 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture this drug as synthetic. No other activities for these drug codes are authorized for this registration.

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–23056 Filed 10–21–22; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; State Training Provider Eligibility Collection

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that the agency receives on or before November 23, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

*Comments are invited on:* (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** Section 122 of Public Law 113–128, the Workforce Innovation and Opportunity Act of 2014 (WIOA), requires training providers to submit performance and cost information in order to become eligible to receive funds through WIOA title 1–B and in order to maintain that eligibility. The Governor or a designated State agency (or State entity) is required to collect this information in order to determine eligibility of training providers and to maintain and to publicly disseminate the State eligible training provider (ETP) list. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 27, 2022 (87 FR 45133).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

*Agency:* DOL–ETA.

*Title of Collection:* State Training Provider Eligibility Collection.

*OMB Control Number:* 1205–0523.

*Affected Public:* State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits and not-for-profit institutions.

*Total Estimated Number of Respondents:* 12,312.

*Total Estimated Number of Responses:* 12,312.

*Total Estimated Annual Time Burden:* 8,906 hours.

*Total Estimated Annual Other Costs Burden:* $0.

(Authority: 44 U.S.C. 3507(a)(1)(D)).

Dated: October 14, 2022.

**Mara Blumenthal,**

*Senior PRA Analyst.*

[FR Doc. 2022–23009 Filed 10–21–22; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by Docket No. MSHA–2022–052 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2022–052.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards,

Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

*Attention:* S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## II. Petition for Modification

*Docket Number:* M–2022–021–C.

*Petitioner:* M&D Anthracite Coal Company, 71 Hill Road, Hegins, Pennsylvania, 17938.

*Mine:* Slope #1, MSHA ID No. 36–09976, located in Schuylkill County, Pennsylvania.

*Regulation Affected:* 30 CFR 75.1400, Hoisting equipment; general.

*Modification Request:* The petitioner requests a modification of 30 CFR 75.1400 to permit operating the gunboat without safety catches or other no less effective devices to transport persons.

The petitioner states that:

(a) No such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of Anthracite mines.

(b) Anthracite mine slopes range in length from 30 to 4,200 feet and vary in pitch from 12 to 75 degrees.

(c) Since a functional safety catch has not yet been developed, makeshift devices, if installed, would be activated on knuckles and curves, causing a tumbling effect on the conveyance. Such tumbling would increase rather than decrease the hazard to miners.

The petitioner proposes the following alternative method:

(a) Operating the cage or steel gunboat with secondary safety connections that are securely fastened around the gunboat and to the hoisting rope above the main connecting device.

(b) Using strong hoisting ropes—those with the safety factors that are greater than the 4 to 8 to 1 ratio recommended by the American National Standard for Wire Rope for Mines.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2022–23004 Filed 10–21–22; 8:45 am]

**BILLING CODE 4520–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

**[OMB Control No. 1219–0041]**

### Proposed Extension of Information Collection; Program To Prevent Smoking in Hazardous Areas of Underground Coal Mines

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for the Program to Prevent Smoking in Hazardous Areas of Underground Coal Mines.

**DATES:** All comments must be received on or before December 23, 2022.

**ADDRESSES:** Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2022–0041.
- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

Section 317(c) of the Mine Act, 30 U.S.C. 877(c), and 30 CFR 75.1702 (smoking; prohibition) prohibit persons from smoking or carrying smoking materials underground or in places where there is a fire or explosion hazard. Under the Mine Act, 30 U.S.C. 877(c) and 30 CFR 75.1702, coal mine operators are required to develop programs to prevent persons from

carrying smoking materials, matches, or lighters underground and to prevent smoking in hazardous areas, such as in or around oil houses, explosives magazines, or other areas where such practice may cause a fire or explosion.

30 CFR 75.1702–1 (smoking program) requires a mine operator to submit a smoking prevention plan to MSHA for approval. Section 103(h) of the Mine Act, 30 U.S.C. 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. These information collection requirements help to ensure that a fire or explosion hazard does not occur.

**II. Desired Focus of Comments**

MSHA is soliciting comments concerning the proposed information collection related to the Program to Prevent Smoking in Hazardous Areas of Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at DOL–MSHA, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

**III. Current Actions**

This request for collection of information contains provisions for the Program to Prevent Smoking in Hazardous Areas of Underground Coal Mines. A smoking prevention program remains in effect for the life of the mine; however, mines occasionally revise their programs and submit them to MSHA. Therefore, the number of annual responses is limited to programs developed for new mines, mines changing ownership, and an occasional revision. In 2020 and 2021, there were 20 new and revised smoking prevention programs approved each year by MSHA under this standard. MSHA estimates that there are no additional costs associated with submission of a smoking prevention program. MSHA's experience is that a smoking prevention program is relatively straightforward, requiring minimal effort, and a respondent typically submits the plan along with other mandatory plans; therefore, mailing or processing costs are not incurred by the mine operator. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

*Type of Review:* Extension, without change, of a currently approved collection.

*Agency:* Mine Safety and Health Administration.

*OMB Number:* 1219–0041.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 20.

*Frequency:* On occasion.

*Number of Responses:* 20.

*Annual Burden Hours:* 10 hours.

*Annual Respondent or Recordkeeper Cost:* $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

**Song-ae Aromie Noe,**

*Certifying Officer.*

[FR Doc. 2022–23006 Filed 10–21–22; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

**[OMB Control No. 1219–0019]**

### Proposed Extension of Information Collection; Slope and Shaft Sinking Plans, 30 CFR 77.1900 (Pertains to Surface Work Areas of Underground Coal Mines)

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed 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 Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Slope and Shaft Sinking Plans, 30 CFR 77.1900 (pertains to surface work areas of underground coal mines).

**DATES:** All comments must be received on or before December 23, 2022.

**ADDRESSES:** Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2022–0049.
- *Mail/Hand Delivery:* Mail or visit DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at

*MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

**SUPPLEMENTARY INFORMATION:**

## I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

30 CFR 77.1900 (Slopes and Shafts; approval of plans) requires underground coal mine operators to submit for approval a plan that will provide for the safety of workers in each slope or shaft that is commenced or extended from the surface to the underground coal mine. Each slope or shaft sinking operation is unique in that each operator uses different methods and equipment and encounters different geological strata which make it impossible for a single set of regulations to ensure the safety of the miners under all circumstances. This makes an individual slope or shaft sinking plan necessary. The plan must be consistent with prudent engineering design. Plans include the name and location of the mine; name and address of the mine operator; a description of the construction work and methods to be used in construction of the slope or shaft, and whether all or part of the work will be performed by a contractor; the elevation, depth and dimensions of the slope or shaft; the location and elevation of the coalbed; the general characteristics of the strata through which the slope or shaft will be developed; the type of equipment which the operator proposes to use; the system of ventilation to be used; and safeguards for the prevention of caving during excavation.

## II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Slope and Shaft Sinking Plans, 30 CFR 77.1900 (pertains to surface work areas of underground coal mines). MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

## III. Current Actions

This request for collection of information contains provisions for Slope and Shaft Sinking Plans, 30 CFR 77.1900 (pertains to surface work areas of underground coal mines). MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

*Type of Review:* Extension, without change, of a currently approved collection.

*Agency:* Mine Safety and Health Administration.

*OMB Number:* 1219–0019.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 24.

*Frequency:* On occasion.

*Number of Responses:* 55.

*Annual Burden Hours:* 1,100 hours.

*Annual Respondent or Recordkeeper Cost:* $35.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

**Song-Ae Aromie Noe,**

*Certifying Officer.*

[FR Doc. 2022–23008 Filed 10–21–22; 8:45 am]

**BILLING CODE 4510–43–P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before November 23, 2022.

**ADDRESSES:** You may submit comments identified by Docket No. MSHA–2022–053 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2022–053.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.

*Attention:* S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the

Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

**I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

**II. Petition for Modification**

*Docket Number:* M–2022–022–C.

*Petitioner:* M&D Anthracite Coal Company, 71 Hill Road, Hegins, Pennsylvania, 17938.

*Mine:* Slope #1, MSHA ID No. 36–09976, located in Schuylkill County, Pennsylvania.

*Regulation Affected:* 30 CFR 75.1002 (a), Installation of electric equipment and conductors; permissibility.

*Modification Request:* The petitioner requests a modification of 30 CFR 75.1002(a) to permit the use of non-permissible electric equipment, including drags and battery locomotives, within 150 feet of the pillar line.

The petitioner states that:

(a) The mine is a pitching anthracite mine.

(b) The use of drags on less than moderate pitching veins (less than 20 degrees pitch) is the only practical system of mining in use.

(c) Permissible drags are not commercially available. Partly due to their small size, permissible locomotives are not commercially available.

(d) Because of low daily production rates and full timbering support, in-rushes of methane resulting from massive pillar falls are unlikely to occur.

(e) Recovery of the pillars above the first miner heading is usually accomplished on the advance within 150 feet of the section intake (gangway) and the remaining minable pillars are recovered from the deepest point of penetration outby.

The petitioner proposes the following alternative method:

(a) The equipment shall be operated in the working section's only intake entry (gangway) which is regularly traveled and examined.

(b) Methane testing shall occur on an hourly basis and the test results shall be recorded in the on-shift examination record.

(c) Equipment operation shall be suspended if the methane concentration at the equipment reaches 0.5% methane during a pre-shift examination or operation.

(d) The required intake air flow of 5,000 cubic feet per minute shall be measured just outby the nonpermissible equipment, with the ventilating air passing over the equipment to ventilate the pillar being mined.

(e) The electrical equipment shall be attended during operation and shall be de-energized at the intersection of the working gangway and intake slope.

(f) Where more than one active line of pillar breast recovery exist, the locomotive may travel to a point just outby the deepest active chute/breast (room) workings or last open crosscut in a developing set of entries.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 2022–23005 Filed 10–21–22; 8:45 am]

**BILLING CODE 4520–43–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2016–0005]**

### Preparations for the 43rd Session of the UN Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice of public meetings.

**SUMMARY:** This notice is to advise interested persons that OSHA will conduct a virtual public meeting in advance of the 43rd session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS) to be held as a hybrid (in-person and virtual) meeting December 7–9, 2022, in Geneva, Switzerland. OSHA, along with the U.S. Interagency Globally Harmonized System of Classification and Labelling of Chemicals (GHS) Coordinating Group, plans to consider the comments and information gathered at this public meeting when developing the U.S. Government positions for the UNSCEGHS meeting. This meeting will occur jointly with the Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA), to discuss proposals in preparation for the 61st session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCETDG), to be held as a hybrid meeting November 28–December 6, 2022.

**DATES:** The virtual public meeting will take place on November 16, 2022. Specific information for each meeting will be posted when available on the OSHA website at *https://www.osha.gov/dsg/hazcom/hazcom_international.html#meeting-notice.*

**ADDRESSES:** The virtual meetings will be hosted through the Department of Transportation (DOT) Headquarters Conference Center, 1200 New Jersey Avenue SE, Washington, DC 20590.

*Written Comments:* Interested parties may submit comments from November 6 through December 6, 2022, on the Working and Informal Papers for the 43rd session of the UNSCEGHS to the docket established for International/Globally Harmonized System (GHS) efforts at: *http://www.regulations.gov,* Docket No. OSHA–2016–0005.

*Registration to Attend and/or to Participate in the Virtual Meetings:* The OSHA and PHMSA meetings will be open to the public on a first-come, first served basis, as space is limited. Advanced meeting registration information will be posted on the PHMSA website listed below. DOT is committed to providing equal access to this meeting for all participants. If you need interpretation or alternative formats or services because of a disability, such as sign language or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Attendees may use the same form to pre-register for both meetings. Failure to pre-register may delay your access into the DOT Headquarters conference call line. Conference call-in and ''Teams meeting'' capability will be provided for both meetings. Information on how to access the conference call and ''Teams meeting'' will be posted when available at: *https://www.phmsa.dot.gov/international-program/international-*

*program-overview* under Upcoming Events. This information will also be posted on OSHA's Hazard Communication website on the international tab at: *https://www.osha.gov/dsg/hazcom/hazcom_international.html#meeting-notice.*

**FOR FURTHER INFORMATION CONTACT:**

*At the Department of Transportation:* Please contact Mr. Steven Webb or Mr. Aaron Wiener, Office of Hazardous Materials Safety, Department of Transportation, telephone: (202) 366–8553.

*At the Department of Labor:* Please contact Ms. Maureen Ruskin, OSHA Directorate of Standards and Guidance, Department of Labor, telephone: (202) 693–1950, email: *ruskin.maureen@dol.gov.*

**SUPPLEMENTARY INFORMATION:** OSHA will conduct a virtual public meeting in advance of the 43rd session of the UNSCEGHS to be held as a hybrid (in-person and virtual) meeting December 7–9, 2022, in Geneva, Switzerland. This virtual public meeting will occur jointly with the DOT PHMSA to discuss proposals in preparation for the 61st session of the UNSCETDG to be held as a hybrid meeting November 28–December 6, 2022. Advanced meeting registration information will be posted on the PHMSA website.

For each of these meetings, OSHA and PHMSA will solicit public input on U.S. government positions regarding proposals submitted by member countries in advance of each meeting.

### The OSHA Meeting

OSHA is hosting an open informal public meeting of the 43rd session of the UNSCEGHS which will represent the fourth and final meeting scheduled for the 2020–2022 biennium. Information on the work of the UNSCEGHS, including meeting agendas, working and informal papers, reports, and documents from previous sessions can be found on the United Nations Economic Commission for Europe (UNECE) Transport Division website located at: *http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html.*

### The PHMSA Meeting

Additional information regarding the UNSCETDG and related matters can be found on PHMSA's website at: *https://www.phmsa.dot.gov/international-program/international-program-overview.*

### Authority and Signature

James S. Fredrick, Deputy Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, authorized the preparation of this notice under the authority granted by sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), and Secretary's Order 1–2012 (77 FR 3912), (Jan. 25, 2012).

Signed at Washington, DC, on October 18, 2022.

**James S. Fredrick,**

*Deputy Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2022–23010 Filed 10–21–22; 8:45 am]

**BILLING CODE 4510–26–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–22–0023; NARA–2023–003]**

## Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

**DATES:** We must receive responses on the schedules listed in this notice by December 9, 2022.

**ADDRESSES:** To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-22-0023/document.* This is a direct link to the schedules posted in the docket for this notice on *regulations.gov*. You may submit comments by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq.*

If you are unable to comment via *regulations.gov*, you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Richardson, Strategy and Performance Division, by email at *regulation_comments@nara.gov* or at 301–837–2902. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

**SUPPLEMENTARY INFORMATION:**

### Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments,

we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

**Background**

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

**Schedules Pending**

1. Department of Homeland Security, Immigration and Customs Enforcement, Confidential Informant Files (DAA–0567–2022–0001).
2. Federal Communications Commission, Public Safety and Homeland Security Bureau, Deployment of Text-to-911 (DAA–0173–2021–0002).
3. United States International Finance Development Corporation, Office of the Inspector General, OIG Records (DAA–0420–2022–0002).

**Laurence Brewer,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2022–23025 Filed 10–21–22; 8:45 am]

**BILLING CODE 7515–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2022–0001]**

### Sunshine Act Meetings

**TIME AND DATE:** Weeks of October 24, 31, November 7, 14, 21, 28, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

**PLACE:** The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

**STATUS:** Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

**MATTERS TO BE CONSIDERED:**

**Week of October 24, 2022**

There are no meetings scheduled for the week of October 24, 2022.

**Week of October 31, 2022—Tentative**

There are no meetings scheduled for the week of October 31, 2022.

**Week of November 7, 2022—Tentative**

*Tuesday, November 8, 2022*

9:00 a.m. Briefing on Regulatory Approaches for Fusion Energy Devices (Public Meeting) (Contact: Samantha Lav: 301–415–3487)

*Additional Information:* The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

*Thursday, November 10, 2022*

10:00 a.m. Briefing on NRC International Activities (Public Meeting) (Contact: Jen Holzman, 301–287–9090)

*Additional Information:* The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

**Week of November 14, 2022—Tentative**

There are no meetings scheduled for the week of November 14, 2022.

**Week of November 21, 2022—Tentative**

There are no meetings scheduled for the week of November 21, 2022.

**Week of November 28, 2022—Tentative**

There are no meetings scheduled for the week of November 28, 2022.

**CONTACT PERSON FOR MORE INFORMATION:** For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: October 20, 2022.

For the Nuclear Regulatory Commission.

**Wesley W. Held,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2022–23203 Filed 10–20–22; 4:15 pm]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2022–0140]**

### Privacy Act of 1974; Systems of Records

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of modified systems of records; request for comment.

**SUMMARY:** Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A–108, to ensure the system of records notices remain accurate, the U.S. Nuclear Regulatory Commission (NRC) staff reviews each notice on a periodic basis. As a result of this systematic review, the NRC is republishing 13 of its system of records notices and has made various revisions to ensure that the NRC's notices remain clear, accurate, and up to date. Four of the system notices—NRC 5, Grants Management System, NRC 8, Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records, NRC 11, Reasonable Accommodations Records, and NRC 23, Case Management System—Indices, Files, and Associated Records are subject to a 30-day comment period. The revisions to these systems, with the exception of the modifications to routines uses for the NRC 5 and NRC 8 systems, are in effect upon this publication. The NRC 5 and NRC 8 routine use modifications will go into effect 30 days after this publication. The remaining systems revisions are minor corrective and administrative changes that do not meet the threshold criteria established by OMB for either a new or altered system of records. The minor modifications include updating authorities, narrowing the scope of one system notice, renaming two systems for clarity, and various other minor updates, in accordance with OMB Circular A–108. Additional details are provided in the **SUPPLEMENTARY INFORMATION** section of this document.

**DATES:** Submit comments by November 23, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0140. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the For **FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Sally Hardy, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5607; email: *Sally.Hardy@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to Docket ID NRC–2022–0140 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–2022–0140.
- *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.*
- NRC's PDR: You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. 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 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

### *B. Submitting Comments*

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2022–0140 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. Background

Pursuant to the Privacy Act of 1974 and OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' notice is hereby given that the NRC is republishing 13 of its system of records notices. In six of those system of records notices, there are revisions that include minor and administrative changes that do not meet the criteria for either a new or altered system of records notice. Three of the systems are being republished as part of our review process with no changes in a single document for ease of use and reference since the last publication in 2019.

The changes in the following four Privacy Act system of records notices do meet the criteria for an altered system of records.

First, the NRC is renaming the NRC 5, Contracts Records System as the Grants Management System to reflect a narrowing of the scope of the system. Other revisions associated with narrowing the scope of the system include modifying the sections on purpose, authority, categories of individuals covered, categories of records, routine uses, policies and practices for retrieval of records, and policies and practices for retention and disposal.

The NRC is revising NRC 8, Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records to clarify the purpose of the system, the categories of individuals covered by the system, the record source categories, the routine uses, and the administrative, technical, and physical safeguards.

The NRC is revising NRC 11, Reasonable Accommodation Records, to clarify the authority for maintenance of this system.

The NRC is revising NRC 23, Office of Investigations Indices, Files and Associated Records, by renaming it as the Case Management System—Indices, Files, and Associated Records and revising it to clarify that the system covers both investigation and

enforcement information. The sections of the notice that the NRC is revising include: system managers, categories of individuals covered, categories of records, policies and practices for storage of records, policies and practices for retrieval of records, and policies and practices for retention and disposal.

The revisions to systems: NRC 5, Grants Management System; NRC 8, Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records; NRC 11, Reasonable Accommodation Records and NRC 23, Office of Investigations Indices, Files and Associated Records, by renaming it as the Case Management System—Indices, Files, and Associated Records, are subject to a 30-day comment period. The revisions to these systems, with the exception of the modifications to routines uses for the NRC 5 and NRC 8 systems, are in effect upon this publication. The NRC 5 and NRC 8 routine use modifications will go into effect 30 days after this publication.

A report on these revisions has been sent to OMB, the Committee on Homeland Security and Governmental Affairs of U.S. Senate, and the Committee on Oversight and Reform of the U.S. House of Representatives, as required by the Privacy Act.

If changes are made based on the NRC's review of comments received, the NRC will publish a subsequent notice.

The text of the report, in its entirety, is attached.

Dated: October 19, 2022.

For the Nuclear Regulatory Commission.

**Scott C. Flanders,**

*Senior Agency Official for Privacy, Office of the Chief Information Officer.*

## Attachment—Nuclear Regulatory Commission Privacy Act Systems of Records

*NRC Systems of Records*

1. Parking Permit Records—NRC.
3. Enforcement Actions Against Individuals—NRC.
5. Grants Management System—NRC.
8. Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records—NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Request Records—NRC.
11. Reasonable Accommodations Records—NRC.
12. Child Care Subsidy Program Records—NRC.
14. Employee Assistance Program Records—NRC.
16. Facility Operator Licensees Records (10 CFR part 55)—NRC.
18. Office of the Inspector General (OIG) Investigative Records—NRC and Defense Nuclear Facilities Safety Board (DNFSB).
19. Official Personnel Training Records—NRC.
21. Payroll Accounting Records—NRC.
23. Case Management System—Indices, Files, and Associated Records—NRC.

These systems of records are maintained by the NRC and contain personal information about individuals that is retrieved by an individual's name or identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the routine uses of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and request amendment of records pertaining to them.

The Privacy Act provides certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to protect records contained in an agency system of records from unauthorized disclosure and to ensure that information is current and accurate for its intended use and that adequate safeguards are provided to prevent misuse of such information.

**SYSTEM NAME AND NUMBER:**

Parking Permit Records—NRC 1.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Facilities and Logistics Branch, Office of Administration, NRC, Two White Flint North, 11555 Rockville Pike, Rockville, Maryland, and current contractor facility.

**SYSTEM MANAGER(S):**

Chief, Facilities and Logistics Branch, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

31 U.S.C. 3511; 41 CFR 102–74.265 *et seq.,* Parking Facilities.

**PURPOSE(S) OF THE SYSTEM:**

The information contained in this system is used for the assignment of parking permits and NRC-controlled parking spaces.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NRC employees and contractors who apply for parking permits for NRC-controlled parking spaces.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records consist of the applications and the revenue collected for the Headquarters' parking facilities. The applications include, but are not limited to, the applicant's name, address, telephone number, length of service, vehicle, rideshare, and handicap information.

**RECORD SOURCE CATEGORIES:**

Applications submitted by NRC employees and contractors.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To record amount paid and revenue collected for parking;

b. To contact permit holder;

c. To determine priority for issuance of permits;

d. To provide statistical reports to city, county, State, and Federal Government agencies;

e. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

f. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

g. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

h. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

i. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

j. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper in file folders and on electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Accessed by name, tag number, and/or permit number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 5.6: Security Records, Item 130, Local facility identification and card access records. Records are destroyed upon immediate collection once the temporary credential or card is returned for potential reissuance due to nearing expiration or not to exceed 6 months from time of issuance or when individual no longer requires access, whichever is sooner, but longer retention is authorized if required for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Paper records are maintained in locked file cabinets under visual control of the Facility Operations and Space Management Branch staff. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records is limited to those persons whose official duties require access.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Enforcement Actions Against Individuals—NRC 3.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary system—NRC Data Center, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Additional records may exist, in whole or in part, within the Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, at the NRC Regional Offices at the locations listed in Addendum I, Part 2, and in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

**SYSTEM MANAGER(S):**

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

42 U.S.C. 2073(e), 2113, 2114, 2167, 2168, 2201(i), 2231, 2282; 10 CFR 30.10, 40.10, 50.5, 50.110, 50.111, 50.120, 60.11, 61.9b, 70.10, 72.12, 110.7b, 110.50, and 110.53; 10 CFR part 2, subpart B; Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*); 10 CFR 19.16(a), 30.7, 40.7, 50.7, 60.9, 70.7, and 72.10; Energy Reorganization Act of 1974, as amended, section 211 (42 U.S.C. 5851); 5 U.S.C. 2302(a)(2)(A).

**PURPOSE(S) OF THE SYSTEM:**

The purpose of the system is to maintain information about individuals involved in NRC-licensed activities who have been subject to NRC enforcement actions or who have been the subject of correspondence indicating that they are being or have been considered for enforcement action.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals involved in NRC-licensed activities who have been subject to NRC enforcement actions or who have been the subject of correspondence indicating that they are being, or have been, considered for enforcement action.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system includes, but is not limited to, individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, Demands for Information, and letters to individuals who are being or have been considered for enforcement action. Also included are responses to these actions and letters. In addition, the files may contain other relevant documents directly related to those actions and letters that have been issued. Files are arranged numerically by Individual Action (IA) numbers, which are assigned when individual enforcement actions are considered. In instances where only letters are issued, these letters also receive IA numbers. The system includes a computerized database from which information is retrieved by names of the individuals subject to the action and IA numbers.

**RECORD SOURCE CATEGORIES:**

Information in the records is primarily obtained from NRC inspectors and investigators and other NRC employees, individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the NRC.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of

records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To deter future violations, certain information in this system of records may be routinely disseminated to the public by means such as publishing in the **Federal Register** certain enforcement actions issued to individuals and making the information available in the Public Document Room accessible through the NRC website, *www.nrc.gov;*

b. When considered appropriate for disciplinary purposes, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a bar association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensing activities;

c. Where appropriate to ensure the public health and safety, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a Federal or State agency with licensing jurisdiction;

d. To respond to the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906;

e. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

f. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

g. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

h. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

i. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

j. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

k. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

l. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Information contained in electronic records are maintained on computer media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are accessed by individual action file number or by the name of the individual.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Cut off files when case is closed. Hold 5 years and retire to Washington National Records Center (WNRC). Transfer to National Archives and Records Administration (NARA) with related indexes when 20 years old. (NUREG–0910, Rev.4, 2.10.2.a(1)). Cut off electronic files when case is closed. Transfer to NARA 2 years after cutoff. Destroy NRC copy 18 years after transferring record to NARA (NUREG–0910, Rev. 4, 2.10.2.a(4)).

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Paper records are maintained in lockable file cabinets and are under visual control during duty hours. Access to computer records requires use of proper password and user identification codes. Access to and use of these records is limited to those NRC employees whose official duties require access.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Grants Management System—NRC 5.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary system— NRC Headquarters, 11555 Rockville Pike, Rockville, Maryland.

**SYSTEM MANAGER(S):**

Senior Grants Administrative Specialist, Office of Nuclear Regulatory Research U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

42 U.S.C. 16274a, ''University Nuclear Leadership Program.''

**PURPOSE(S) OF THE SYSTEM:**

To administer grant programs for scholarship, fellowships, faculty development and research and development projects at institutions of higher education, including scholarships to trade schools and community colleges. This information is used to track a student that receives federal grant funds under a scholarship or fellowship from academia through employment after graduation to ensure the student's compliance with the terms of his or her service agreement under the University Nuclear Leadership Program (UNLP).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Student recipients who are selected by Grantee Institutions as sub-grantees to receive federal grant funds for scholarships or fellowships under UNLP grant awards.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Student name, grant award providing financial support, type of grant award, performance dates of the grant award, address, phone, email, students' educational major/degree, amount of funds received under the grant award, graduation date, service obligation requirement, service agreement received, place of employment, position held, service agreement received, work status (employed in nuclear, graduated, waiver approved, repayment), tracking of a waiver requested/approved, invoice information if applicable in the event of repayment of funds and amount of years that a student is required to work in a nuclear-related position under the service agreement.

**RECORD SOURCE CATEGORIES:**

The information is derived from approved student service agreements that are required under the program pursuant to 42 U.S.C. 2015b. The NRC establishes the agreement per the statutory and program requirements. The grant recipient institutions require the students to complete the forms for approval by the NRC and countersignature by the institution.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. A record from this system of records may be disclosed as a routine use to that individual's educational institution in order to monitor the progress of scholarship and fellowship recipients, to ensure compliance with program requirements, to use the data to demonstrate program effectiveness, and for the educational institution's record-keeping purposes.

b. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

c. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

d. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

e. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

f. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

g. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager.

h. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

i. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

These records are maintained electronically on a protected shared drive, restricted access to only those approved by grant staff and OCHCO.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information retrieved by names, grant award numbers or job status.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained and disposed of in accordance with National Archives and Records Administration record retention schedules appropriate to the retention.

GRS 1.2 item 010—Grant and cooperative agreement program

management records. Temporary. Destroy 3 years after final action is taken on the file, but longer retention is authorized if required for business use.

GRS 1.2 item 020—Grant and cooperative agreement case files. Successful applications. Temporary. Destroy 10 years after final action is taken on file, but longer retention is authorized if required for business use.

GRS 1.2 item 021—Grant and cooperative agreement case files. Unsuccessful application. Temporary. Destroy 3 years after final action is taken on file, but longer retention is authorized if required for business use.

GRS 1.1 item 010—Financial transaction records related to procuring goods and services, paying bills, collecting debts and accounting. Official record held in the office of record. Temporary. Destroy 6 years after final payment or cancellation, but longer retention is authorized if required for business use.

GRS 1.1 item 011—Financial transaction records related to procuring goods and services, paying bills, collecting debts and accounting. All other copies (used for administrative or reference purposes). Temporary. Destroy when business use ceases.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records are maintained on protected shared drive. Access rights to the information is only available to authorized personnel.

**RECORDS ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records—NRC 8.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary system—Office of the Chief Human Capital Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

The Office of the Inspector General (OIG) employee files are located with the NRC's OIG, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system may be maintained, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 1555 Rockville Pike, Rockville, Maryland, and at NRC's Regional Offices at locations listed in Addendum I, Part 2.

**SYSTEM MANAGER(S):**

Chief, Policy, Labor and Employee Relations Branch, Office of the Chief Human Capital Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For OIG employee records: Director, Resource Management and Operations Support, Office of the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 3132(a); 5 U.S.C. 3502, 5 U.S.C. 3571, 5 U.S.C. 4303, as amended; 5 U.S.C. 7513; 29 U.S.C. 633a; 29 U.S.C. 791; 42 U.S.C. 2000e-16; 42 U.S.C. 2201(d), as amended.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to maintain the records of current and former NRC employees, including annuitants, who have filed complaints, grievances or appeals and/or have been the subject of proposed or final disciplinary actions or have been suspected of misconduct.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former NRC employees who are involved in any employee and/or labor relations actions or proceedings.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Includes all documents related to: disciplinary actions; adverse actions; appeals; complaints, including but not limited to those raised under the agency's prevention of harassment program; grievances; arbitrations; and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators, courts of law, or other tribunals. The records may include the initial appeal or complaint, letters or notices to the individual, records of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

**RECORD SOURCE CATEGORIES:**

Individuals to whom the record pertains, NRC employees, managers, and contractors, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; reports of inquiries (findings); official documents relating to the appeal, grievance, or complaint, including but not limited to those raised under the agency's prevention of harassment program and Allegations of Retaliation for Raising Safety Concerns (ARRSC) program; Official Personnel Folder; and other Federal agencies.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To furnish information to other Federal organizations, including but not limited to, the Office of Personnel Management, Merit Systems Protection Board, Office of Special Counsel (OSC), and Equal Employment Opportunity Commission (EEOC) under applicable requirements related to complaints, investigations and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals;

c. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response

to a written request from that agency's head or an official who has been delegated such authority;

d. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

e. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

f. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

g. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

h. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

i. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

j. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper and computer media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are retrieved by individual's name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 2.3: Employee Relations Records, Administrative grievance, disciplinary, and adverse action files, Item 060, Administrative grievance files, Item 061, Adverse action files, and Item 062, Performance-based action files, respectively. Destroy no sooner than 4 years but no less than 7 years after case is closed.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records are maintained in locked file cabinets and in a security-controlled access automated system. Access to and use of these records is limited to those persons whose official duties require such access.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.'' Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Freedom of Information Act (FOIA) and Privacy Act (PA) Request Records—NRC 10.

**SECURITY CLASSIFICATION:**

Classified and Unclassified.

**SYSTEM LOCATION:**

Primary system—FOIA, Library, and Information Collection Brach, Governance & Enterprise Management Services Division, Office of the Chief Information Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, at the locations listed in Addendum I, Parts 1 and 2.

**SYSTEM MANAGER(S):**

FOIA Officer, FOIA, Library, and Information Collections Branch, Governance & Enterprise Management Services Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 552 and 552a; 42 U.S.C. 2201, as amended; 10 CFR part 9.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to support the processing of record access requests and administrative appeals under the FOIA, as well as access, notification, and amendment requests and administrative appeals under the Privacy Act, whether NRC receives such requests directly from the requester or via referral from another agency. In addition, this system is used to support agency participation in litigation arising from such requests and appeals, and to assist NRC in carrying out any other responsibilities under the FOIA or the access or amendment provisions of the Privacy Act.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals filing requests for access to information under the Freedom of Information Act (FOIA) or Privacy Act (PA); individual's names in the FOIA request; NRC staff assigned to help process, consider, and respond to such requests, including any appeals.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains copies of the written requests from individuals or organizations made under the FOIA or PA, the NRC response letters, and related records.

**RECORD SOURCE CATEGORIES:**

Requests are made by individuals. The response to the request is based upon information contained in NRC records.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a;

c. To another Federal agency when consultation or referral is required to process a request;

d. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

e. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

f. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

g. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

h. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

i. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

j. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm;

k. A record from this system of records may be disclosed as a routine use to respond to the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to allow OGIS to fulfill its responsibilities *under 5 U.S.C* § 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA) and offer mediation services to resolve disputes between persons making FOIA requests and administrative agencies; and

l. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

m. FOIA records, which are publicly available in the Public Documents Room, are accessible through the NRC website, *http://www.nrc.gov.*

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper, audio and video tapes, and electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are accessed by unique assigned number for each request and by requester's name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's, General Records Schedule 4.2: Information Access and Protection Records, Item 020, Access and disclosure request files. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records are maintained on restricted drives, folders, SharePoint, in a safe, or in locked file cabinets, in workstations or that are kept in locked rooms. Electronic records are password protected. Access to and use of these records is limited to those persons whose official duties require such access and have a need to know.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Records contained in this system that have been placed on the NRC public website are available upon request. Pursuant to 5 U.S.C. 552a(k)(2), records in this system, which reflect records that are contained in other systems of records that are designated as exempt, are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a.

**SYSTEM NAME AND NUMBER:**

Reasonable Accommodation Records—NRC 11.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary system—For Headquarters and all Senior Executive Service (SES) personnel, Office of the Chief Human Capital Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

**SYSTEM MANAGER(S):**

Human Resources Specialist (RA) and Branch Chief, Policy, Labor and Employee Relations Branch, Associate Director for Human Resources Operations and Policy, Office of the Chief Human Capital Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order (E.O.) 13164; E.O. 9397, as amended by E.O. 13478; Social Security Number Fraud Prevention Act of 2017, 42 U.S.C. 405 note.

**PURPOSE(S) OF THE SYSTEM:**

To allow the NRC to collect and maintain records on employees and applicants for employment who have disabilities and have requested or received reasonable accommodations as required by Sections 501, 504, and 701 of the Rehabilitation Act of 1973. This system will track and report the processing of requests for reasonable accommodations to comply with applicable law and regulations and to preserve and maintain confidentiality.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Federal employees and applicants for employment requesting a reasonable accommodation.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system name, accommodation being requested, accommodation type, impairment, disability type, disability condition, 504/508 explanation, and case notes.

**RECORD SOURCE CATEGORIES:**

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; employee's supervisor or private and Federal physicians, and medical institutions.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. A record from this system of records may be disclosed as a routine use to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information may be transferred to such agency;

b. A record from this system of records may be disclosed as a routine use to provide information to the OPM and/or MSPB for review, audit, or reporting purposes;

c. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

d. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

e. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

f. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

g. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

h. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

i. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

j. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper in file folders and on electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records for employees are retrieved by employee name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 2.3: Employee Relations Records, Item 020, Reasonable accommodation records, Reasonable accommodation program files, and Item 021, Reasonable accommodation employee case files. Destroy 3 years after being superseded, but longer retention is authorized if required for business use (Item 020). Destroy 3 years after employee separation from the agency or all appeals are concluded,

whichever is later, but longer retention is authorized if required for business use (Item 021).

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records are maintained on paper and electronically. Paper documents are maintained in lockable file cabinets. Electronic files are password protected.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Child Care Subsidy Program Records—NRC 12.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

DecisionPoint Corporation, 702 Russell Ave. Suite 312, Gaithersburg, MD 20877

**SYSTEM MANAGER(S):**

Associate Director for Human Resources Operations and Policy, Office of the Chief Human Capital Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

40 U.S.C. 590(g); 5 CFR 792.201–206; Executive Order (E.O.) 9397, as amended by E.O. 13478; Social Security Number Fraud Prevention Act of 2017, 42 U.S.C. 405 note.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to administer NRC-sponsored childcare program.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NRC employees who voluntarily apply for childcare subsidy.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records include application forms for child care subsidy containing personal information about the employee (parent), their spouse (if applicable), their child/children, and their child care provider, including name, social security number, employer, grade, home and work telephone numbers, home and work addresses, total family income, name of child on whose behalf the parent is applying for subsidy, child's date of birth; information on child care providers used, including name, address, provider license number and State where issued, child care cost, and provider tax identification number; and copies of IRS Form 1040 or 1040A for verification purposes.

**RECORD SOURCE CATEGORIES:**

Information is obtained from NRC employees who apply for childcare subsidy and their childcare provider.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. A record from this system of records may be disclosed as a routine use to the Office of Personnel Management to provide statistical reports;

b. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

c. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

d. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

e. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury;

f. or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

g. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

h. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

i. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

j. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper and electronic media at the current contractor site.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information may be retrieved by employee name or social security number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 2.4: Employee Compensation and Benefits Records, Item 120, Childcare subsidy program administrative records. Destroy when 3 years old, but longer retention is authorized if required for business use. Childcare subsidy program individual case files are retained under General Records Schedule 2.4, Item 121. Destroy 2 years after employee participation concludes, but longer retention is authorized if required for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

When not in use by an authorized person, paper records are stored in lockable file cabinets and computer records are protected by the use of passwords.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Employee Assistance Program Records—NRC 14.

**SECURITY CLASSIFICATION:**

Unclassified

**SYSTEM LOCATION:**

Office of the Chief Human Capital Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and current contractor facility.

**RECORD SOURCE CATEGORIES:**

Information compiled by the Employee Assistance Program contractor during the course of counseling with an NRC employee or family members of the employee.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 7901; 21 U.S.C. 1101–1181; 42 U.S.C. chapter 6A, Subchapter III–A; 44 U.S.C. 3101; 44 U.S.C. 3301; 5 CFR 792.101–105.

**PURPOSE(S) OF THE SYSTEM:**

This record system will maintain information gathered by and in the possession of the NRC's EAP contractor. The EAP is an agency program designed to assist employees of the NRC and, in certain instances, their family members, in regard to a variety of personal and/or work-related issues.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains records of NRC employees or their family members who have participated in the EAP and the results of any counseling or referrals which may have taken place. The records may contain information as to the nature of each participant's problem, subsequent treatment, and progress.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses: (Note: Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Substance Use Disorder Patient Records regulations, 42 CFR part 2, as authorized by 42 U.S.C. 290dd-2, as amended).

a. For statistical reporting purposes;

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

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

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper in file folders and on electronic media.

**POLICIES AND PRACTICES FOR RETREIVAL OF RECORDS:**

Information accessed by the EAP identification number and name of the individual.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 2.7: Employee Health and Safety Records, Employee Assistance Program (EAP) counseling records, Item 091, Records not related to performance or conduct. Destroy 7 years after termination of counseling for adults or 3 years after a minor reaches the age of majority, or when the state-specific statute of limitations has expired for contract providers subject to state requirements, but longer retention is authorized if needed for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Files are maintained in a safe under the immediate control of the Employee Assistance Program contractor. Case files are maintained in accordance with the confidentiality requirements of Public Law 93–282, any NRC-specific confidentiality regulations, and the Privacy Act of 1974.

**SYSTEM MANAGER(S):**

(1) Associate Director for HR Operations and Policy and (2) the Program Specialist, Office of the Chief Human Capital Officer, U.S. Nuclear

Regulatory Commission, Washington, DC 20555–0001.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Facility Operator Licensees Records (10 CFR part 55)—NRC 16.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for non-power (test and research) reactor facilities, at the Operator Licensing and Human Factors Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The Reactor Program System—Operator Licensing (RPS–OL) is located at NRC Headquarters and is accessible by the four Regional Offices.

**SYSTEM MANAGER(S):**

Chief, Operator Licensing and Human Factors Branch, Division of Reactor Oversight, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

42 U.S.C. 2131–2141; 10 CFR part 55.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of the system is to record information associated with individual operator licenses; including initial applications, examination results, license issuance, license renewals, license expirations, and medical status.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals licensed under 10 CFR part 55, applicants whose applications are being processed, and individuals whose licenses have expired.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records contain information pertaining to 10 CFR part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

**RECORD SOURCE CATEGORIES:**

Information in this system comes from the individual applying for a license, the 10 CFR part 50 licensee, a licensed physician, and NRC and contractor staff.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To determine if the individual meets the requirements of 10 CFR part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators;

c. To provide examination, testing material, and results to facility management;

d. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

e. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

f. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

g. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

h. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

i. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

j. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper in file folders and logs, and on electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records are accessed by name and docket number and ADAMS accession number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the Nuclear Regulatory Commission's (NRC) NUREG 0910 Rev 4—(2.18.6.a, 2.25.9.a), Headquarters and Regional Operator Licensing Files, 10 CFR part 55 Docket Files. Cutoff files upon latest license expiration/revocation/termination, application denial or withdrawal, or issuance of denial letter. Destroy when 10 years old. Examination Package records are retained under NUREG 0910 Rev 4—(2.18.6.b(1), 2.18.6.b(4), 2.25.9.b(1), 2.25.9.b(4)). Cutoff upon receipt of next exam. Destroy 4 years after cutoff.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Maintained in locked file cabinets or an area that is locked. Computer files are password protected. Access to and use of these records is limited to those persons whose official duties require such access based on roles and responsibilities.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Office of the Inspector General (OIG) Investigative Records—NRC and Defense Nuclear Facilities Safety Board (DNFSB)—NRC 18.

**SECURITY CLASSIFICATION:**

Unclassified

**SYSTEM LOCATION:**

Office of the Inspector General, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland

**SYSTEM MANAGER(S):**

Assistant Inspector General for Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Inspector General Act of 1978, as amended, 5 U.S.C. app. 3; and the Consolidated Appropriations Act, 2014.

**PURPOSE(S) OF THE SYSTEM:**

NRC OIG uses records and information collected and maintained in this system to receive and adjudicate allegations/complaints of violations of criminal, civil, and administrative laws and regulations relating to NRC programs, operations, and employees, as well as contractors and other individuals and entities associated with NRC; monitor complaint and investigation assignments, status, disposition, and results; manage investigations and information provided during the course of such investigations; track and assess actions taken by NRC management regarding employee misconduct and other allegations; support and assess legal actions taken following referrals for criminal prosecution or litigation; provide information relating to any adverse action or other proceeding that may occur as a result of the findings of an investigation.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and entities referred to in complaints or actual investigative cases, reports, accompanying documents, and correspondence prepared by, compiled by, or referred to the OIG.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system comprises five parts: (1) An automated Investigative Database Program containing reports of investigations, inquiries, and other reports closed since 1989; (2) paper files of all OIG and predecessor Office of Inspector and Auditor (OIA) reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data, and work papers pertaining to all closed and pending investigations, inquiries, and other reports; (3) an automated Investigative Management System that includes allegations referred to the OIG from 1985 forward, whether or not the allegation progressed to an investigation, inquiry or other report, and dates that an investigation, inquiry or other report was opened and closed and reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data and work papers pertaining to these cases.

**RECORD SOURCE CATEGORIES:**

The information is obtained from sources including, but not limited to, the individual record subject; NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, OIG may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To any Federal, State, local, tribal, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity when records from this system of records, either by themselves or in combination with any other information, indicate a violation or potential violation of law, whether administrative, civil, criminal, or regulatory in nature;

b. To public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry;

c. To a court, adjudicative body before which NRC or DNFSB is authorized to appear, Federal agency, individual or entity designated by NRC or DNFSB or otherwise empowered to resolve disputes, counsel or other representative, or witness or potential witness when it is relevant and necessary to the litigation if any of the parties listed below is involved in the litigation or has an interest in the litigation:

1. NRC or DNFSB, or any component of NRC or DNFSB;

2. Any employee of NRC or DNFSB where the NRC or DNFSB or the Department of Justice has agreed to represent the employee; or

3. The United States, where NRC or DNFSB determines that the litigation is likely to affect the NRC or DNFSB or any of their components;

d. To a private firm or other entity with which OIG or NRC or DNFSB contemplates it will contract or has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit,

inspection, inquiry, or other activity related to this system of records, to include to contractors or entities who have a need for such information or records to resolve or support payment to the agency. The contractor, private firm, or entity needing access to the records to perform the activity shall maintain Privacy Act safeguards with respect to information. A contractor, private firm, or entity operating a system of records under 5 U.S.C. 552a(m) shall comply with the Privacy Act;

e. To another agency to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG;

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906;

g. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

h. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

i. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

j. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

k. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

l. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

m. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

n. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Information is maintained in paper files and on electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information is retrieved from the Investigative Database Program by the name of an individual, by case number, or by subject matter. Information in the paper files backing up the Investigative Database Program and older cases closed by 1989 is retrieved by subject matter and/or case number, not by individual identifier. Information in both the Allegations Tracking System and the Investigative Management System is retrieved by allegation number, case number, or name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained according to the National Archives and Records Administration's approved schedule for the Office of the Inspector General, N1–431–10–002, item 2.b, Investigation Case Files. Cut off at close of fiscal year in which the case is closed. Transfer to the Federal Records Center (FRC) 3 years after cutoff. Transfer to National Archives and Records Administration 20 years after cutoff. Retain an electronic copy until no longer needed (Allegation records will be managed in the corresponding Investigation Case File).

Referred Allegations are retained under the National Archives and Records Administration's approved schedule, N1–431–10–002, item 2.a.ii. Cut off allegation file at the end of the fiscal year when the issue described in the Referral Letter is resolved. Hold allegation file in the OIG for a minimum of 2 years after cutoff. Destroy 10 years after cutoff.

Closed Allegations are retained under the National Archives and Records Administration's approved schedule, N1–431–10–002, item 2.a.iii. Cut off allegation files at the end if the fiscal year in which the allegation is closed. Destroy the allegation file 5 years after cutoff.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Access to the automated Investigative Database Program is password protected. Both the Allegations Tracking System and the Investigative Management System are accessible from terminals that are double-password-protected. Paper files backing up the automated systems and older case reports and work papers are maintained in approved security containers and locked filing cabinets in a locked room; associated indices, records, diskettes, tapes, etc., are stored in locked metal filing cabinets, safes, storage rooms, or similar secure facilities. All records in this system are available only to authorized personnel who have a need to know and whose duties require access to the information.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Inspector General Act, 5 U.S.C. app. 3, and the Commission's Policy Statement on

Confidentiality, Management Directive 8.8, ''Management of Allegations.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Under 5 U.S.C. 552a(j)(2), the Commission has exempted this system of records from subsections (c)(3) and (4), (d)(1)–(4), (e)(1)–(3), (5), and (8), and (g) of the Act. This exemption applies to information in the system that relates to criminal law enforcement and meets the criteria of the (j)(2) exemption. Under 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

*Disclosure Pursuant to 5 U.S.C. 552a(b)(12):*

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

## SYSTEM NAME AND NUMBER:

Official Personnel Training Records—NRC 19.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary system located at the NRC's current contractor facility on behalf of the Office of the Chief Human Capital Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

The Office of the Inspector General (OIG) employee files are located with the OIG at NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at the Technical Training Center, Regional Offices, and within the organization where the NRC employee works, at the locations listed in Addendum I, Parts 1 and 2.

**SYSTEM MANAGER(S):**

Associate Director for Training and Development, Office of the Chief Human Capital Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For OIG employee records: Director, Resource Management and Operations Support, Office of the Inspector General, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 3396; 5 U.S.C. 4103; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 11348, as amended by E.O. 12107; 5 CFR parts 410 and 412.

**PURPOSE(S) OF THE SYSTEM:**

This record system will collect, and document training given to NRC employees, contractors, and others who are provided NRC training. This system will provide NRC with a means to track the particular training that is provided, identify training trends, monitor and track the expenditure of training, schedule training classes and programs, schedule instructors, track training items issued to students, assess the effectiveness of training, identify patterns, respond to requests for information related to the training of NRC personnel and other individuals.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who applied or were selected for NRC, other Government, or non-Government training courses or programs.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

These records contain information relating to an individual's educational background and training courses including training requests and authorizations, evaluations, supporting documentation, and other related personnel information, including but not limited to, an individual's name, address, telephone number, position title, organization, and grade.

**RECORD SOURCE CATEGORIES:**

Information is provided by the subject individual, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. Information may be extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local government agencies; educational institutions and training facilities for purposes of enrollment and verification of employee attendance and performance;

b. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

c. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

d. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

e. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

f. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that

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

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records are maintained on paper in file folders and on electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information is accessed by name, user identification number, course number, or course session number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 2.6: Employee Training Records, Item 010, Non-mission employees training program records. Destroy when 3 years old, or 3 years after superseded or obsolete, whichever is appropriate, but longer retention is authorized if required for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Electronic records are maintained in a password protected computer system. Paper is maintained in lockable file cabinets and file rooms. Access to and use of these records is limited to those persons whose official duties require such access, with the level of access controlled by roles and responsibilities.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

## SYSTEM NAME AND NUMBER:

Payroll Accounting Records—NRC 21.

**SECURITY CLASSIFICATION:**

Unclassified

**SYSTEM LOCATION:**

Primary system—Division of the Comptroller, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. NRC has an interagency agreement with the Department of the Interior's Interior Business Center (DOI/IBC), Federal Personnel/Payroll System (FPPS), in Denver, Colorado, to maintain electronic personnel information and perform payroll processing activities for its employees as of November 2, 2003.

Duplicate system—Duplicate systems exist, in part, within the organization where the employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

**SYSTEM MANAGER(S):**

Chief, Financial Services and Operations Branch, Division of the Comptroller, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

26 CFR 31.6011(b)–2, 31.6109–1; 5 U.S.C. 6334; 5 U.S.C. part III, subpart D; 31 U.S.C. 716; 31 U.S.C., subtitle III, chapters 35 and 37; Executive Order (E.O.) 9397, as amended by E.O. 13478; Social Security Number Fraud Prevention Act of 2017, 42 U.S.C. 405 note.

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system is to ensure proper payment of salary and benefits to NRC personnel, and to track time worked, leave, or other absences for reporting and compliance purposes.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former NRC employees, including special Government employees (*i.e.* consultants).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Pay, leave, benefit enrollment and voluntary allowance deductions, and labor activities, which includes, but is not limited to, an individual's name and social security number.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from sources, including but not limited to, the individual to whom it pertains, the Office of the Chief Human Capital Officer and other NRC officials, and other agencies and entities.

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

In accordance with an interagency agreement the NRC may disclose records to the DOI/IBC FPPS in order to affect all financial transactions on behalf of the NRC related to employee pay. Specifically, the DOI/IBC's FPPS may affect employee pay or deposit funds on behalf of NRC employees, and/or it may withhold, collect or offset funds from employee salaries as required by law or as necessary to correct overpayment or amounts due.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses; or, where determined to be appropriate and necessary, the NRC may authorize DOI/IBC to make the disclosure:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate state and local taxing authorities;

c. For FICA and Medicare deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers by the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for financial reporting;

i. For withholding and reporting of retirement, tax levies, bankruptcies, garnishments, court orders, re-employed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes;

k. For transmittal to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and

Human Services Federal Parent Locator System and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action;

l. For transmittal to the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

m. For transmittal to the Office of Child Support Enforcement for release to the Department of Treasury for the purpose of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

n. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906;

o. Time and labor data are used by the NRC as a project management tool in various management records and reports (*i.e.* work performed, work load projections, scheduling, project assignments, budget), and for identifying reimbursable and fee billable work performed by the NRC;

p. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

q. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

r. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

s. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

t. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

u. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a

v. purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager; A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLCIES AND PRACTICES FOR STORAGE OF RECORDS:**

Information is maintained on electronic media (stored in memory, on disk, and magnetic tape), on microfiche, and in paper copy.

Electronic payroll, time, and labor records prior to November 2, 2003, are maintained in the Human Resources Management System (HRMS), the PAY PERS Historical database reporting system, and on microfiche at NRC. Electronic payroll records from November 2, 2003, forward are maintained in the DOI/IBC's FPPS in Denver, Colorado. Time and labor records are maintained in the HRMS at NRC.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information is accessed by employee identification number, name and social security number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained under the National Archives and Records Administration's General Records Schedule 2.4: Employee Compensation and Benefits Records, Item 010, Records used to calculate payroll, arrange paycheck deposit, and change previously issued paychecks. Destroy 2 year after employee separation or retirement, but longer retention is authorized if required for business use. Records are also retained under General Records Schedule 2.4, item 020, Tax withholding and adjustment documents. Destroy 4 years after superseded or obsolete, but longer retention is authorized if required for business use. Records are also retained under General Records Schedule 2.4, item 030, Time and attendance records. Destroy after GAO audit or when 3 years old, whichever is sooner. Records are also retained under General Records Schedule 2.4, item 040, Agency payroll record for each pay period. Destroy when 56 years old. Records are also retained under General Records Schedule 2.4, item 050, Wage and tax statements. Destroy when 4 years old, but longer retention is authorized if required for business use. Payroll program administrative records are retained under General Records Schedule 2.4, item 060, Administrative correspondence between agency and payroll processor, and system reports used for agency workload and or personnel management purposes. Destroy when 2 years old, but longer retention is authorized if required for business use. Payroll system reports providing fiscal information on agency payroll are retained under General Records Schedule 2.4, item 061. Destroy when 3 years old or after GAO audit, whichever comes sooner, but longer retention is authorized if required for business use.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records are maintained in buildings where access is controlled by a security guard force. File folders, microfiche, tapes, and disks, including backup data, are maintained in secured locked rooms and file cabinets after working hours. All records are in areas where access is controlled by keycard and is limited to NRC and contractor personnel who need the information to perform their official duties. Access to computerized records requires use of proper passwords and user identification codes.

**RECORD ACCESS PROCEDURES:**

Same as ''Notification procedures.''

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

*Disclosure pursuant to 5 U.S.C. 552a(b)(12):*

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

## SYSTEM NAME AND NUMBER:

Case Management System—Indices, Files, and Associated Records—NRC 23.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Primary system—NRC Data Center, 11555 Rockville Pike, Rockville, Maryland.

**SYSTEM MANAGER(S):**

For OI Records—Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For OE Records—Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

42 U.S.C. 2035(c); 42 U.S.C. 2201(c); and 42 U.S.C. 5841; 10 CFR 1.36; 10 CFR 1.33.

**PURPOSE(S) OF THE SYSTEM:**

NRC OI uses records and information collected and maintained in this system to receive and adjudicate allegations of violations of criminal, civil, and administrative laws and regulations relating to NRC programs, operations, and employees, as well as contractors and other individuals and entities associated with NRC; monitor complaint and investigation assignments, status, disposition, and results; manage investigations and information provided during the course of such investigations; audit actions taken by NRC management regarding employee misconduct and other allegations.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals and entities referred to in potential or actual investigations and matters of concern to the Office of Investigations and correspondence on matters directed or referred to the Office of Investigations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Agency case files, memoranda, and materials including, but not limited to, investigative reports, confidential source information, correspondence to and from the agency, fiscal data, legal papers, evidence, exhibits, technical data, investigative data, internal data, work papers, audio files, and management information data.

**RECORD SOURCE CATEGORIES:**

Information is obtained from sources including, but not limited to, NRC officials, employees, and licensees; Federal, State, local, and foreign agencies; and other persons.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the persons or entities mentioned therein if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

k. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant;

l. A record relating to an investigation or matter falling within the purview of the Office of Investigations may be disclosed as a routine use to the referring agency, group, organization, or individual;

m. A record relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual;

n. A record in the system of records relating to an investigation or matter may be disclosed as a routine use to a foreign country under an international treaty or agreement;

o. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to the agency;

p. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority;

q. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract, or issuing a security clearance, license, grant or other benefit;

r. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit;

s. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or

grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations;

t. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual;

u. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a ''need-to-know'' basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager;

v. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) NRC suspects or has confirmed that there has been a breach of the system of records, (2) NRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, NRC (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NRC efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; and

w. A record from this system of records may be disclosed as a routine use to another Federal agency or Federal entity, when the NRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Information maintained on paper and/or electronic records, photographs, audio/video tapes, and electronic media.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Information retrieved by document text and/or case number/allegation number.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records for this system are scheduled using NRC's NUREG 0910 Revision 4 and the National Archives and Records Administration's approved scheduled N1–431–01–001 for the Office of Investigations.

Official investigation cases created by field investigator, all records/documents will be uploaded electronically into the OI Case Management system (or another electronic system designated at that time) and are considered official OI records. The selected records for permanent retention are scheduled under NUREG 0910, Revision 4, 2.16.4.a (GRS 5.2, item 020). Cut off files when case is closed. Create electronic record on the day created or received or as soon as practical and upload appropriate official files in the system.

Allegation Case Files, per NARA Approved Citation, N1–431–00–8, Item 1.d, Cut off files upon final resolution of allegation. Retain in the Office of Enforcement (OE) for 2 years or until no longer needed for current activities. Destroy 10 years after cut off. Working copies can be destroyed upon final resolution of allegations, based on GRS 5.2 Item 020, Intermediary Records.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Hard copy files maintained in approved security containers and locking filing cabinets. All records are under visual control during duty hours and are available only to authorized personnel who have a need to know and whose duties require access to the information. The electronic management information system is operated within the NRC's secure LAN/WAN system. Access rights to the system only available to authorized personnel.

**RECORDS ACCESS PROCEDURES:**

Same as ''Notification procedures.'' Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Commission's Policy Statement on Confidentiality, Management Directive 8.8, ''Management of Allegations,'' and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedures Manual and will not be disclosed to the extent that disclosure would reveal a confidential source.

**CONTESTING RECORD PROCEDURES:**

Same as ''Notification procedures.''

**NOTIFICATION PROCEDURES:**

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act or Privacy Act Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

**Addendum I—List of U.S. Nuclear Regulatory Commission Locations**

**Part 1—NRC Headquarters Offices**

1. One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

2. Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

**Part 2—NRC Regional Offices**

1. NRC Region I, 2100 Renaissance Boulevard, Suite 100, King of Prussia, Pennsylvania.

2. NRC Region II, Marquis One Tower, 245 Peachtree Center Avenue NE, Suite 1200, Atlanta, Georgia.

3. NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, Illinois.

4. NRC Region IV, 1600 East Lamar Boulevard, Arlington, Texas.

5. NRC Technical Training Center, Osborne Office Center, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee.

[FR Doc. 2022–23075 Filed 10–21–22; 8:45 am]

**BILLING CODE 7590–01–P**

## RAILROAD RETIREMENT BOARD

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m., November 2, 2022.

**PLACE:** Members of the public wishing to attend the meeting must submit a written request at least 24 hours prior to the meeting to receive dial-in information. All requests must be sent to *SecretarytotheBoard@rrb.gov.*

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

1. Legislative Update
2. Actuary Update

**CONTACT PERSON FOR MORE INFORMATION:** Stephanie Hillyard, Secretary to the Board, (312) 751–4920.

*Authority:* 5 U.S.C. 552b.

Dated: October 20, 2022.

**Stephanie Hillyard,**

*Secretary to the Board.*

[FR Doc. 2022–23180 Filed 10–20–22; 11:15 am]

**BILLING CODE 7905–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–187, OMB Control No. 3235–0211]**

### Proposed Collection; Comment Request; Extension: Rule 18f–1 and Form N–18f–1

*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 (44 U.S.C. 3501–3520), 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.

Rule 18f–1 (17 CFR 270.18f–1) enables a registered open-end management investment company (''fund'') that may redeem its securities in-kind, by making a one-time election, to commit to make cash redemptions pursuant to certain requirements without violating section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–18(f)). A fund relying on the rule must file Form N–18F–1 (17 CFR 274.51) to notify the Commission of this election. The Commission staff estimates that 12 funds file Form N–18F–1 annually, and that each response takes one hour. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 12 hours. The estimated burden hours associated with rule 18f–1 and Form 18F–1 have decreased by 10 hours from the current allocation of 22 hours. This decrease is due to a decrease in the estimated number of investment companies filing Form N–18F–1 annually. There is no external cost associated with this collection of information.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. 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 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 estimate of the burden of 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 by December 23, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 18, 2022.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2022–22976 Filed 10–21–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–606, OMB Control No. 3235–0670]**

### Proposed Collection; Comment Request; Extension: Rule 201 and Rule 200(g) of Regulation SHO

*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 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 201 (17 CFR 242.201) and Rule 200(g) (17 CFR 242.200(g)) under the Securities Exchange Act of 1934 (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.

Rule 201 is a short sale-related circuit breaker rule that, if triggered, imposes a restriction on the prices at which securities may be sold short. Rule 200(g) provides that a broker-dealer may mark certain qualifying sell orders ''short exempt.'' The information collected under Rule 201's written policies and procedures requirement applicable to trading centers, the written policies and procedures requirement of the broker-dealer provision of Rule 201(c), the written policies and procedures requirement of the riskless principal provision of Rule 201(d)(6), and the ''short exempt'' marking requirement of Rule 200(g) enable the Commission and self-regulatory organizations (''SROs'') to examine and monitor for compliance with the requirements of Rule 201 and Rule 200(g).

In addition, the information collected under Rule 201's written policies and procedures requirement applicable to trading centers help ensure that trading centers do not execute or display any impermissibly priced short sale orders, unless an order is marked ''short exempt,'' in accordance with the Rule's requirements. Similarly, the information collected under the written policies and procedures requirement of the broker-dealer provision of Rule 201(c) and the riskless principal provision of Rule 201(d)(6) help to ensure that broker-dealers comply with the requirements of these provisions. The information collected pursuant to the ''short exempt'' marking requirement of Rule 200(g) also provides an indication to a trading center when it must execute or display a short sale order without regard to whether the short sale order is at a price that is less than or equal to the current national best bid.

It is estimated that SRO and non-SRO respondents registered with the Commission and subject to the collection of information requirements of Rule 201 and Rule 200(g) incur an aggregate annual burden of 1,556,049 hours to comply with the Rules and an aggregate annual external cost of $370,933.

Written comments are invited on: (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 estimates of the burden of the proposed 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 by December 23, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 18, 2022.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2022–22977 Filed 10–21–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–404, OMB Control No. 3235–0461]**

### Proposed Collection; Comment Request; Extension: Rule 602

*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 (''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 602 of Regulation NMS (17 CFR 240.602), under the Securities Exchange Act of 1934 (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.

Rule 602 of Regulation NMS, Dissemination of Quotations in NMS securities, contains two related collections. The first collection of information is found in Rule 602(a).[1] This third-party disclosure requirement obligates each national securities exchange and national securities association to make available to quotation vendors for dissemination to the public the best bid, best offer, and aggregate quotation size for each ''subject security,'' as defined under the Rule. The second collection of information is found in Rule 602(b).[2] This disclosure requirement obligates any exchange member and over-the-counter (''OTC'') market maker that is a ''responsible broker or dealer,'' as defined under the Rule, to communicate to an exchange or association its best bids, best offers, and quotation sizes for subject securities.[3]

It is anticipated that 25 respondents, consisting of 24 national securities exchanges and one national securities association, will collectively respond approximately 19,093,763,801,315 times per year pursuant to Rule 602(a) at 18.22 microseconds per response, resulting in a total annual time burden of approximately 96,625 hours. It is anticipated that no respondents will have a reporting burden pursuant to Rule 602(b).[4]

Thus, the aggregate third-party disclosure burden under Rule 602 is approximately 96,625 hours annually which is comprised of 96,625 hours relating to Rule 602(a) and 0 hours relating to Rule 602(b).

Written comments are invited on: (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 estimates of the burden of the proposed 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 by December 23, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: October 18, 2022.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2022–22975 Filed 10–21–22; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 17 CFR 242.602(a).

[2] 17 CFR 242.602(b).

[3] Under Rule 602(b)(5), electronic communications networks (''ECNs'') have the option of reporting to an exchange or association for public dissemination, on behalf of customers that are OTC market makers or exchange market makers, the best-priced orders and the full size for such orders entered by market makers on the ECN, to satisfy such market makers' reporting obligation under Rule 602(b). Since this reporting requirement is an alternative method of meeting the market makers' reporting obligation, and because it is directed to nine or fewer persons (ECNs), this collection of information is not subject to OMB review under the Paperwork Reduction Act (''PRA'').

[4] For the reporting obligation under Rule 602(b), the respondents are exchange members and OTC market makers. The Commission believes that communication of quotations through an exchange's electronic trading system effectively means that exchange members currently have no reporting burden under Rule 602(b) for these quotations. The Commission also believes that there are presently no OTC market makers that quote other than on an exchange.

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 2:00 p.m. on Thursday, October 27, 2022.

**PLACE:** The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:** For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

*Authority:* 5 U.S.C. 552b.

Dated: October 20, 2022.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2022–23190 Filed 10–20–22; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–96101; File No. 4–762]**

## Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and MEMX LLC

October 18, 2022.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on October 6, 2022, pursuant to Rule 17d–2 of the Act,[2] by the Financial Industry Regulatory Authority, Inc. (''FINRA'') and MEMX LLC (''MEMX'') (collectively, ''Participating Organizations'' or ''parties''). This agreement amends and restates the agreement entered into between FINRA and MEMX on April 16, 2020, entitled ''Agreement between Financial Industry Regulatory Authority, Inc. and MEMX LLC pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

### I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and opportunity for comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

### II. The Plan

On June 17, 2020, the Commission declared effective the Plan entered into between FINRA and MEMX for allocating regulatory responsibility pursuant to Rule 17d–2.[11] The Plan is intended to reduce regulatory duplication for firms that are common members of FINRA and MEMX by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations that are common among them. Included in the Plan is an exhibit that lists every MEMX rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to MEMX members that are also members of FINRA and the associated persons therewith (''Certification'').

### III. Proposed Amendment to the Plan

On October 6, 2022, the parties submitted a proposed amendment to the Plan (''Amended Plan''). The primary purpose of the Amended Plan is to add Securities Exchange Act Rule 14e–4(a)(1)(ii)(D) to the Certification to accommodate the upcoming launch of MEMX's new options facility and to reflect updated rule citations. The text of the proposed Amended Plan is as follows (additions are italicized; deletions are [bracketed]):

* * * * *

**AGREEMENT BETWEEN FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. AND MEMX LLC PURSUANT TO RULE 17d–2 UNDER THE SECURITIES EXCHANGE ACT OF 1934**

This Agreement, by and between the Financial Industry Regulatory Authority, Inc. (''FINRA'') and MEMX LLC (''MEMX''), is made this [16th] *6th* day of [April, 2020] *October, 2022* (the ''Agreement''), pursuant to Section 17(d) of the Securities Exchange Act

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 89084 (June 17, 2020), 85 FR 37701 (June 23, 2020).

of 1934 (the ''Exchange Act'') and Rule 17d–2 thereunder, which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA and MEMX may be referred to individually as a ''party'' and together as the ''parties.''

*Whereas,* FINRA and MEMX desire to reduce duplication in the examination and surveillance of their Dual Members (as defined herein) and in the filing and processing of certain registration and membership records; and

*Whereas,* FINRA and MEMX desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') for its approval.

*Now, therefore,* in consideration of the mutual covenants contained hereinafter, FINRA and MEMX hereby agree as follows:

1. *Definitions.* Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) ''*MEMX Rules*'' or ''*FINRA Rules*'' shall mean: (i) the rules of MEMX, or (ii) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) ''*Common Rules*'' shall mean MEMX Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on *Exhibit 1* in that examination or surveillance for compliance with such provisions and rules would not require FINRA to develop one or more new examination or surveillance standards, modules, procedures, or criteria in order to analyze the application of the provision or rule, or a Dual Member's activity, conduct, or output in relation to such provision or rule; provided, however, Common Rules shall not include the application of the SEC, MEMX or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., *MEMX LLC, MIAX PEARL, LLC,* Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca Inc., and Investors' Exchange LLC and Long-Term Stock Exchange, Inc. effective [August 1, 2019] *September 23, 2020,* as may be amended from time to time. Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from MEMX, (ii) incorporation by reference of MEMX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority, by MEMX, (iv) prior written approval of MEMX and (v) payment of fees or fines to MEMX.

(c) ''*Dual Members*'' shall mean those MEMX members that are also members of FINRA and the associated persons therewith.

(d) ''*Effective Date*'' shall be the date this Agreement is approved by the Commission.

(e) ''*Enforcement Responsibilities*'' shall mean the conduct of appropriate proceedings, in accordance with FINRA's Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under FINRA's Code of Procedure and sanctions guidelines.

(f) ''*Regulatory Responsibilities*'' shall mean the examination responsibilities, surveillance responsibilities and Enforcement Responsibilities relating to compliance by the Dual Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto.

2. *Regulatory and Enforcement Responsibilities.* FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Dual Members. Attached as *Exhibit 1* to this Agreement and made part hereof, MEMX furnished FINRA with a current list of Common Rules and certified to FINRA that such rules that are MEMX Rules are substantially similar to the corresponding FINRA Rules (the ''Certification''). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the rules of MEMX or FINRA, MEMX shall submit an updated list of Common Rules to FINRA for review which shall add MEMX Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete MEMX Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be MEMX Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibilities'' does not include, and MEMX shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) (collectively, the ''Retained Responsibilities'') the following:

(a) surveillance, examination, investigation and enforcement with respect to trading activities or practices involving MEMX's own marketplace for rules that are not Common Rules;

(b) registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules);

(c) discharge of its duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Exchange Act; and

(d) any MEMX Rules that are not Common Rules, except for MEMX Rules for any MEMX member that operates as a facility (as defined in Section 3(a)(2) of the Exchange Act), acts as an outbound router for the MEMX and is a member of FINRA (''Router Member'') as provided in paragraph 6. As of the date of this Agreement, MEMX Execution Services LLC is the only Router Member.

3. *Dual Members.* Prior to the Effective Date, MEMX shall furnish FINRA with a current list of Dual Members, which shall be updated no less frequently than once each quarter.

4. *No Charge.* There shall be no charge to MEMX by FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as otherwise agreed by the parties, either herein or in a separate agreement.

5. *Applicability of Certain Laws, Rules, Regulations or Orders.* Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission. To the extent such statute, rule or order is inconsistent with this Agreement, the statute, rule or order shall supersede the provision(s) hereof to the extent necessary for them to be properly effectuated and the provision(s) hereof in that respect shall be null and void.

6. *Notification of Violations.*

(a) In the event that FINRA becomes aware of apparent violations of any MEMX Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify MEMX of those apparent violations for such response as MEMX deems appropriate. With respect to apparent violations of any MEMX Rules by any Router Member, FINRA shall not make referrals to MEMX pursuant to this paragraph 6. Such apparent violations shall be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA as provided in this Agreement.

(b) In the event that MEMX becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, MEMX shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement.

(c) Apparent violations of Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Dual Member is the subject of an investigation relating to a transaction on MEMX, MEMX may in its discretion assume concurrent jurisdiction and responsibility.

(d) Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

7. *Continued Assistance.*

(a) FINRA shall make available to MEMX all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the Dual Members subject to this Agreement. In particular, and not in limitation of the

foregoing, FINRA shall furnish MEMX any information it obtains about Dual Members which reflects adversely on their financial condition. MEMX shall make available to FINRA any information coming to its attention that reflects adversely on the financial condition of Dual Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. Neither party shall assert regulatory or other privileges as against the other with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

8. *Statutory Disqualifications.* When FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Dual Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep MEMX advised of its actions in this regard for such subsequent proceedings as MEMX may initiate.

9. *Customer Complaints.* MEMX shall forward to FINRA copies of all customer complaints involving Dual Members received by MEMX relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

10. *Advertising.* FINRA shall assume responsibility to review the advertising of Dual Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

11. *No Restrictions on Regulatory Action.* Nothing contained in this Agreement shall restrict or in any way encumber the right of either party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Dual Members, as either party, in its sole discretion, shall deem appropriate or necessary.

12. *Termination.* This Agreement may be terminated by MEMX or FINRA at any time upon the approval of the Commission after six (6) month's written notice to the other party.

13. *Arbitration.* In the event of a dispute between the parties as to the operation of this Agreement, MEMX and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other party. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section 13 shall interfere with a party's right to terminate this Agreement as set forth herein.

14. *Notification of Members.* MEMX and FINRA shall notify Dual Members of this Agreement after the Effective Date by means of a uniform joint notice.

15. *Amendment.* This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

16. *Limitation of Liability.* Neither FINRA nor MEMX nor any of their respective directors, governors, officers or employees shall be liable to the other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or the other of FINRA or MEMX and caused by the willful misconduct of the other party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by FINRA or MEMX with respect to any of the responsibilities to be performed by each of them hereunder.

17. *Relief from Responsibility.* Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d-2 thereunder, FINRA and MEMX join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve MEMX of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

18. *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

19. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

* * * * *

**EXHIBIT 1**

MEMX CERTIFICATION OF COMMON RULES

MEMX hereby certifies that the requirements contained in the rules listed below for MEMX are identical to, or substantially similar to, the comparable FINRA (NASD) Rules, Exchange Act provision or SEC rule identified (''Common Rules'').

# Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from MEMX, (ii) incorporation by reference of MEMX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority, by MEMX, (iv) prior written approval of MEMX and (v) payment of fees or fines to MEMX.

| MEMX rule | FINRA (NASD) rule, Exchange Act provision, SEC rule |
|---|---|
| Rule 2.5 Restrictions, Interpretation and Policies .02 Continuing Education Requirements #. | FINRA Rule 1240[(a)(1)–(4)] Continuing Education Requirements#. |
| Rule 2.5 Restrictions, Interpretations and Polic[y]*ies* .04 Termination of Employment. | FINRA By-Laws of the Corporation, Article V, Section 3 Notification by Member to the Corporation and Associated Person of Termination; Amendments to Notification; FINRA Rule 1010(e) Electronic Filing Requirements for Uniform Forms. |
| Rule 2.6*(b) and* (g) Application Procedures for Membership or to become an Associated Person of a Member #. | FINRA By-Laws of the Corporation, Article IV, Section 1(c) Application for Membership and Article V, Sec. 2(c); FINRA Rule 1010(c) Electronic Filing Requirements for Uniform Forms. |
| Rule 3.1 Business Conduct of Members ^ | FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade.^ |
| Rule 3.2 Violations Prohibited ^ # | FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade and FINRA Rule 3110 Supervision.^ |
| Rule 3.3 Use of Fraudulent Devices ^ | FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Devices.^ |
| Rule 3.5 Communications with the Public | FINRA Rule 2210 Communications with the Public. |

| MEMX rule | FINRA (NASD) rule, Exchange Act provision, SEC rule |
|---|---|
| Rule 3.6 Fair Dealing with Customers | FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Devices,^[1] FINRA Rule 2111 Suitability. |
| Rule 3.7(a) Recommendations to Customers | FINRA Rule 2111(a) and SM .03 Suitability. |
| Rule 3.8(a) The Prompt Receipt and Delivery of Securities | FINRA Rule 11860 COD Orders. |
| Rule 3.8(b) The Prompt Receipt and Delivery of Securities | SEC Regulation SHO. |
| Rule 3.9 Charges for Services Performed | FINRA Rule 2122 Charges for Services Performed. |
| Rule 3.10 Use of Information | FINRA Rule 2060 Use of Information Obtained in Fiduciary Capacity. |
| Rule 3.11 Publication of Transactions and Quotations # | FINRA Rule 5210 Publication of Transactions and Quotations. |
| Rule 3.12 Offers at Stated Prices | FINRA Rule 5220 Offers at Stated Prices. |
| Rule 3.13 Payments Involving Publications that Influence the Market Price of a Security. | FINRA Rule 5230 Payments Involving Publications that Influence the Market Price of a Security. |
| Rule 3.14 Disclosure on Confirmations | FINRA Rule 2232(a) Customer Confirmations and SEC Rule 10b–10 Confirmation of Transactions. |
| Rule 3.15 Disclosure of Control | FINRA Rule 2262 Disclosure of Control Relationship With Issuer. |
| Rule 3.16 Discretionary Accounts | FINRA Rule 3260 Discretionary Accounts. |
| Rule 3.17 Customer's Securities or Funds | FINRA Rule 2150(a) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts—Improper Use |
| Rule 3.18 Prohibition Against Guarantees | FINRA Rule 2150(b) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts—Prohibition Against Guarantees. |
| Rule 3.19 Sharing in Accounts; Extent Permissible | FINRA Rule 2150(c)(1) Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts—Sharing in Accounts; Extent Permissible. |
| Rule 3.21 Customer Disclosures | FINRA Rule 2265 Extended Hours Trading Risk Disclosure. |
| Rule 3.20 Influencing or Rewarding Employees of Others | FINRA Rule 3220 Influencing or Rewarding Employees of Others. |
| Rule 3.22 Telemarketing and Interpretations and Policies .01 | FINRA Rule 3230 Telemarketing. |
| Rule 4.1 Requirements # | Section 17 of the Exchange Act and rules thereunder and FINRA Rule 4511(a) and (c) General Requirements.[2] |
| Rule 4.3 Record of Written Complaints | FINRA Rule 4513 Records of Written Customer Complaints. |
| Rule 5.1 Written Procedures # | FINRA Rule 3110(b)(1) Supervision-Written Procedures.^ |
| Rule 5.2 Responsibility of Members | FINRA Rule 3110 (a)(4), (b)(4) and (b)(7) Supervision—Supervisory System/Written Procedures—Review of Correspondence and Internal Communications.^ |
| Rule 5.3 Records | FINRA Rule 3110 Supervision.^ |
| Rule 5.4 Review of Activities | FINRA Rule 3110(c) and (d) Supervision—Internal Inspections/Transaction Review and Investigation.^ |
| Rule 5.6 Anti-Money Laundering Compliance Program # | FINRA Rule 3310 Anti-Money Laundering Compliance Program. |
| Rule 9.3 Predispute Arbitration Agreements | FINRA Rule 2268 Requirements When Using Predispute Arbitration Agreements for Customer Accounts. |
| Rule 11.16(e)(3) & (4) Trading Halts Due to Extraordinary Market Volatility. | FINRA Rule 6190(a) & (b) Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility. |
| Rule 11.10(a)(5) Order Execution #^^ | FINRA Rule 6182 Trade Reporting of Short Sales.^^ |
| Rule 11.10(f) Locking Quotation or Crossing Quotations in NMS Stocks **. | FINRA Rule 6240 Prohibition from Locking or Crossing Quotations in NMS Stocks.** |
| Rule 12.1 Market Manipulation | FINRA Rule 6140(a) Other Trading Practices. |
| Rule 12.2 Fictitious Transactions | FINRA Rule 6140 Other Trading Practices and FINRA Rule 5210 Supplementary Material .02 Self-Trades. |
| Rule 12.3 Excessive Sales [B]*by* [A]*a* Member | FINRA Rule 6140(c) Other Trading Practices. |
| Rule 12.4 Manipulative Transactions | FINRA Rule 6140 Other Trading Practices. |
| Rule 12.5 Dissemination of False Information | FINRA Rule 6140(e) Other Trading Practices. |
| Rule 12.6 Prohibition Against Trading Ahead of Customer Orders #** | FINRA Rule 5320 Prohibition Against Trading Ahead of Customer Orders.** |
| Rule 12.9 Trade Shredding | FINRA Rule 5290 Order Entry and Execution Practices. |
| Rule 12.11 Best Execution ** | FINRA Rule 5310 Best Execution and Interpositioning.** |
| Rule 12.13 Trading Ahead of Research Reports ** | FINRA Rule 5280 Trading Ahead of Research Reports.** |
| Rule 12.14 Front Running of Block Transactions ** | FINRA Rule 5270 Front Running of Block Transactions.** |
| Rule 13.3(a), (b)(i), (d) and Interpretation and Policy .01 Forwarding of Proxy and Other Issuer-Related Materials; Proxy Voting. | FINRA Rule 2251 Processing and Forwarding of Proxy and Other Issuer-Related Materials. |
| Rule 26.11 Restrictions on Pledge and Lending of Public Customers' Securities. | FINRA Rule 4330 Customer Protection—Permissible Use of Customers' Securities. |

[1] FINRA shall not have Regulatory Responsibilities regarding .01 of MEMX Rule 3.6.

[2] FINRA shall not have Regulatory Responsibilities regarding requirements to keep records ''in conformity with . . . Exchange Rules;'' responsibility for such requirement remains with MEMX.

In addition, the following provisions shall be part of this 17d–2 Agreement:

*SEA Rules:*

- SEA Rule 200 of Regulation SHO—Definition of Short Sales and Marking Requirements **
- SEA Rule 201 of Regulation SHO—Circuit Breaker **
- SEA Rule 203 of Regulation SHO—Borrowing and Delivery Requirements **
- SEA Rule 204 of Regulation SHO—Close-Out Requirement **
- SEA Rule 101 of Regulation M—Activities by Distribution Participants **
- SEA Rule 102 of Regulation M—Activities by Issuers and Selling Security Holders During a Distribution **
- SEA Rule 103 of Regulation M—Nasdaq Passive Market Making **
- SEA Rule 104 of Regulation M—Stabilizing and Other Activities in Connection with an Offering **
- SEA Rule 105 of Regulation M—Short Selling in Connection With a Public Offering **

- SEA Rule 604 of Regulation NMS—Display of Customer Limit Orders **
- SEA Rule 606 of Regulation NMS—Disclosure of Routing Information **
- SEA Rule 610(d) of Regulation NMS—Locking or Crossing Quotations **
- SEA Rule 611 of Regulation NMS—Order Protection Rule **
- SEA Rule 10b–5 Employment of Manipulative and Deceptive Devices ^
- SEA Rule 17a–3/17a–4—Records to Be Made by Certain Exchange Members, Brokers, and Dealers/Records to Be Preserved by Certain Exchange Members, Brokers, and Dealers ^
- *SEA Rule 14e–4—Prohibited Transactions in Connection with Partial Tender Offers* + +

^ FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange Inc., Cboe EDGX Exchange Inc., Financial Industry Regulatory Authority, Inc., *MEMX LLC, MIAX PEARL, LLC,* Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca Inc., and Investors' Exchange LLC and [the] Long-Term Stock Exchange, Inc. effective [August 1, 2019] *September 23, 2020*, as may be amended from time to time.

** FINRA shall perform the surveillance responsibilities for the double star rules. These rules may be cited by FINRA in both the context of this Agreement and the Regulatory Services Agreement.

+ + FINRA shall perform the surveillance responsibilities for SEA Rule 14e–4(a)(1)(ii)(D).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number 4–762 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 4–762. 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 (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of FINRA and MEMX. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number 4–762 and should be submitted on or before November 14, 2022.

## V. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act [12] and Rule 17d–2(c) thereunder [13] in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Dual Members that would otherwise be performed by FINRA and MEMX. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to Dual Members. Furthermore, because MEMX and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, MEMX and FINRA have allocated regulatory responsibility for those MEMX rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Dual Member's activity, conduct, or output in relation to such rule. In addition, under the Amended Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Amended Plan, MEMX will review the Certification at least annually, or more frequently if required by changes in either the rules of MEMX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add MEMX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete MEMX rules included in the then-current list of Common Rules that no longer qualify as common rules; and confirm that the remaining rules on the list of Common Rules continue to be MEMX rules that qualify as common rules.[14] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Amended Plan. The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all MEMX rules that are substantially similar to the rules of FINRA for Dual Members of MEMX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to MEMX rules in the Certification in conformance with the definition of Common Rules provided in the Amended Plan. However, should the

[12] 15 U.S.C. 78q(d).

[13] 17 CFR 240.17d–2(c).

[14] *See* paragraph 2 of the Amended Plan.

Parties decide to add an MEMX rule to the Certification that is not substantially similar to a FINRA rule; delete an MEMX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification an MEMX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d-2 under the Act.[15]

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the Amended Plan is to add Securities Exchange Act Rule 14e–4(a)(1)(ii)(D) to the Certification. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[16] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

## VI. Conclusion

This order gives effect to the Amended Plan filed with the Commission in File No. 4–762. The Parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

*It is therefore ordered,* pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–762, between the FINRA and MEMX, filed pursuant to Rule 17d–2 under the Act, hereby is approved and declared effective.

*It is further ordered* that MEMX is relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–762.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–22989 Filed 10–21–22; 8:45 am]

**BILLING CODE 8011–01–P**

[15] The addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Dual Members, also would constitute an amendment to the Amended Plan.

[16] *See* Securities Exchange Act Release No. 88981 (May 20, 2020), 85 FR 34690 (June 5, 2020).

[17] 17 CFR 200.30–3(a)(34).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–96100; File No. S7–966]**

## Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among Cboe BZX Exchange, Inc., BOX Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., The Nasdaq Stock Market LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC, MIAX Emerald, LLC and MEMX LLC Concerning Options-Related Sales Practice Matters

October 18, 2022.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on September 20, 2022, pursuant to Rule 17d–2 of the Act,[2] by Cboe BZX Exchange, Inc. (''BZX''), BOX Exchange, LLC (''BOX''), Cboe Exchange, Inc., Cboe C2 Exchange, Inc. (''C2''), Nasdaq ISE, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''MIAX''), The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq BX, Inc. (''BX''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), Nasdaq PHLX LLC (''PHLX''), Nasdaq GEMX, LLC (''GEMX''), Cboe EDGX Exchange, Inc. (''EDGX''), Nasdaq MRX, LLC (''MRX''), MIAX PEARL, LLC (''MIAX PEARL''), MIAX Emerald, LLC (''MIAX Emerald''), and MEMX LLC (''MEMX'') (collectively, ''Participating Organizations'' or ''parties'').

## I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

## II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] On May 23, 2000, the Commission approved an amendment to the plan that added the ISE as a participant.[12] On November 8, 2002, the Commission approved another amendment that replaced the original plan in its entirety and, among other things, allocated regulatory responsibilities among all the participants in a more equitable manner.[13] On February 5, 2004, the Commission approved an amendment to the plan, primarily to include the BSE, which was establishing a new options trading facility to be known as BOX, as an SRO participant.[14] On March 26, 2007, the Commission approved an amendment to the plan that, among other things, provided that the National Association of Securities Dealers (''NASD'') (n/k/a FINRA) and NYSE are Designated Options Examining Authorities under the plan.[15] On March 12, 2008, the Commission approved an amendment to the plan primarily to add NASDAQ as an SRO participant.[16] On June 18, 2008, the Commission approved an amendment to the plan primarily to remove the NYSE as a Designated Options Examining Authority, leaving FINRA as the sole Designated Options Examining Authority for all common members that are members of FINRA.[17] On February 25, 2010, the Commission approved a proposed amendment to the plan to add Bats and C2 as SRO participants and to reflect the name changes of the American Stock Exchange LLC to the NYSE Amex LLC, the Boston Stock Exchange, Inc., to the NASDAQ OMX BX, Inc. and the Philadelphia Stock Exchange, Inc. to the NASDAQ OMX PHLX, Inc.[18] On May 11, 2012, the Commission approved an amendment to the plan to add BOX as an SRO participant and to amend Section XIII of the plan to set forth a revised procedure for adding new participants to the plan.[19] On December 5, 2012, the Commission approved an amendment to the plan to add MIAX as an SRO participant, and to change the name of NYSE Amex LLC to NYSE MKT LLC.[20] On July 26, 2013, the Commission approved an amendment to the plan to add Topaz Exchange LLC as an SRO participant.[21] On October 29, 2015, the Commission approved an amendment to the plan to add EDGX as an SRO participant and to change the name of Topaz Exchange, LLC to ISE Gemini, LLC.[22] On February 16, 2016, the Commission approved an amendment to the plan to add ISE Mercury, and remove the NYSE, as an SRO participant to the Plan.[23] On February 2, 2017, the Commission approved an amendment to the plan to add MIAX PEARL as an SRO participant to the Plan.[24] On February 12, 2019, the Commission approved an amendment to the plan to add MIAX Emerald as an SRO participant to the Plan.[25]

The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain options-related sales practice matters to one of the SRO participants. Generally, under the plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Pursuant to the plan, any other SRO of which the firm is a member is relieved of these responsibilities during the period in which the firm is assigned to another SRO acting as that firm's DOEA.

## III. Proposed Amendment to the Plan

On September 20, 2022, the Parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add MEMX as a Participant to the Plan to accommodate the upcoming launch of MEMX's new options facility, to reflect name changes of certain Participating Organizations, and to reflect updated rule citations. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized;* deletions are [bracketed]):

* * * * *

**Agreement by and Among Cboe BZX Exchange, Inc., BOX [Options] Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, NYSE American LLC, NYSE Arca, Inc., The Nasdaq Stock Market LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC [and], MIAX Emerald, LLC and MEMX LLC Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934**

This agreement (''Agreement''), by and among Cboe BZX Exchange, Inc. (''*BZX*''), BOX [Options] Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''*MIAX*''), The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq BX, Inc. (''*BX*''), NYSE American LLC (''*NYSE*

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983).

[12] *See* Securities Exchange Act Release No. 42816 (May 23, 2000), 65 FR 34759 (May 31, 2000).

[13] *See* Securities Exchange Act Release No. 46800 (November 8, 2002), 67 FR 69774 (November 19, 2002).

[14] *See* Securities Exchange Act Release No. 49197 (February 5, 2004), 69 FR 7046 (February 12, 2004).

[15] *See* Securities Exchange Act Release No. 55532 (March 26, 2007), 72 FR 15729 (April 2, 2007).

[16] *See* Securities Exchange Act Release No. 57481 (March 12, 2008), 73 FR 14507 (March 18, 2008).

[17] *See* Securities Exchange Act Release No. 57987 (June 18, 2008), 73 FR 36156 (June 25, 2008).

[18] *See* Securities Exchange Act Release No. 61589 (February 25, 2012), 75 FR 9976 (March 4, 2010).

[19] *See* Securities Exchange Act Release No. 66974 (May 11, 2012), 77 FR 29705 (May 18, 2012).

[20] *See* Securities Exchange Act Release No. 68363 (December 5, 2012), 77 FR 73711 (December 11, 2012).

[21] *See* Securities Exchange Act Release No. 70051 (July 26, 2013), 78 FR 46644 (August 1, 2013).

[22] *See* Securities Exchange Act Release No. 76309 (October 29, 2015), 80 FR 68361 (November 4, 2015).

[23] *See* Securities Exchange Act Release No. 77148 (February 16, 2016), 81 FR 8775 (February 22, 2016).

[24] *See* Securities Exchange Act Release No. 79929 (February 2, 2017), 82 FR 9757 (February 8, 2017).

[25] *See* Securities Exchange Act Release No. 85106 (February 12, 2019), 84 FR 4554 (February 15, 2019).

*American*''), NYSE Arca, Inc. (''*NYSE Arca*''), Nasdaq PHLX LLC (''*PHLX*''), Nasdaq GEMX, LLC (''*GEMX*''), Cboe EDGX Exchange, Inc. (''*EDGX*''), Nasdaq MRX, LLC (''*MRX*''), MIAX PEARL, LLC (''*MIAX PEARL*'') [and], MIAX Emerald, LLC (''*MIAX Emerald*''), and MEMX LLC (''*MEMX*'') hereinafter collectively referred to as the Participants, is made this [2nd] *20th* day of [January, 2019] *September, 2022,* pursuant to the provisions of Rule 17d–2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), which allows for plans among self-regulatory organizations to allocate regulatory responsibility. This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council'').

This Agreement amends and restates the agreement entered into among the Participants on [January 13, 2017] *January 2, 2019,* entitled ''Agreement by and among Cboe BZX Exchange, Inc., BOX Options Exchange, LLC, Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, The Nasdaq Stock Market LLC, Nasdaq BX, Inc., NYSE American LLC, NYSE Arca, Inc., Nasdaq PHLX LLC, Nasdaq GEMX, LLC, Cboe EDGX Exchange, Inc., Nasdaq MRX, LLC, MIAX PEARL, LLC and MIAX Emerald, LLC, Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.''

*Whereas*, the Participants are desirous of allocating regulatory responsibilities with respect to broker-dealers, and persons associated therewith, that are members [1] of more than one Participant (the ''Common Members'') and conduct a public business for compliance with Common Rules (as hereinafter defined) relating to the conduct by broker-dealers of accounts for listed options, index warrants, currency index warrants and currency warrants (collectively, ''Covered Securities''); and

*Whereas*, the Participants are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''SEC'' or the ''Commission'') for its approval;

*Now, therefore*, in consideration of the mutual covenants contained hereafter, the Participants agree as follows:

I. As used herein the term Designated Options Examining Authority (''DOEA'') shall mean: (1) FINRA insofar as it shall perform Regulatory Responsibility (as hereinafter defined) for its broker-dealer members that also are members of another Participant or (2) the Designated Examination Authority (''DEA'') pursuant to SEC Rule 17d–1 under the Securities Exchange Act (''Rule 17d–1'') for a broker-dealer that is a member of a more than one Participant (but not a member of FINRA).

II. As used herein, the term ''Regulatory Responsibility'' shall mean the examination and enforcement responsibilities relating to compliance by Common Members with the rules of the applicable Participant that are substantially similar to the rules of the other Participants (the ''Common Rules''), insofar as they apply to the conduct of accounts for Covered Securities. A list of the current Common Rules of each Participant applicable to the conduct of accounts for Covered Securities is attached hereto as Exhibit A. Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, each Participant shall submit in writing to FINRA and each DEA performing as a DOEA for any members of such Participant any revisions to Exhibit A reflecting changes in the rules of the Participant, and confirm that all other rules of the Participant listed in Exhibit A continue to meet the definition of Common Rules as defined in this Agreement. Within 30 days from the date that FINRA and each DEA performing as a DOEA has received revisions and/or confirmation that no change has been made to Exhibit A from all Participants, FINRA and each DEA performing as a DOEA shall confirm in writing to each Participant whether the rules listed in any updated Exhibit A are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participants shall (unless allocated pursuant to Rule 17d–2 otherwise than under this Agreement) retain full responsibility for, each of the following:

(a) Surveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(b) Registration pursuant to its applicable rules of associated persons;

(c) Discharge of its duties and obligations as a DEA; and

(d) Evaluation of advertising, responsibility for which shall remain with the Participant to which a Common Member submits same for approval.

III. Apparent violations of another Participant's rules discovered by a DOEA, but which rules are not within the scope of the discovering DOEA's Regulatory Responsibility, shall be referred to the relevant Participant for such action as the Participant to which such matter has been referred deems appropriate. Notwithstanding the foregoing, nothing contained herein shall preclude a DOEA in its discretion from requesting that another Participant conduct an enforcement proceeding on a matter for which the requesting DOEA has Regulatory Responsibility. If such other Participants agree, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant and confirmed in writing by the Participants involved. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in an investigation or enforcement proceeding.

IV. The Council shall be composed of one representative designated by each of the Participants. Each Participant shall also designate one or more persons as its alternate representative(s). In the absence of the representative of a Participant, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each Participant may, at any time, by notice to the then Chair of the Council, replace its representative and/or its alternate representative on such Council. A majority of the Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. The representative from FINRA shall serve as Chair of the Council. All notices and other communications for the Council shall be sent to it in care of the Chair or to each of the representatives.

V. The Council shall determine the times and locations of Council meetings, provided that the Chair, acting alone, may also call a meeting of the Council in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten-business days prior thereto. Notwithstanding anything herein to the

[1] In the case of [BOX Options Exchange, LLC (''BOX''), Nasdaq BX, Inc. ('']BX[''))], *BZX, NYSE American, NYSE Arca, EDGX, MIAX PEARL, MEMX, PHLX* and Nasdaq, members are those persons who are options participants (as defined in the [BOX,] BX*, BZX, NYSE American, NYSE Arca, EDGX, MIAX PEARL, MEMX, PHLX* and Nasdaq Options Market Rules).

contrary, representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VI. FINRA shall have Regulatory Responsibility for all Common Members that are members of FINRA. For the purpose of fulfilling the Participants' Regulatory Responsibilities for Common Members that are not members of FINRA, the Participant that is the DEA shall serve as the DOEA. All Participants shall promptly notify the DOEAs no later than the next scheduled meeting of any change in membership of Common Members. A DOEA may request that a Common Member that is allocated to it be reallocated to another DOEA by giving thirty days written notice thereof. The DOEAs in their discretion may approve such request and reallocate such Common Member to another DOEA.

VII. Each DOEA shall conduct an examination of each Common Member. The Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOEA. At each meeting of the Council, each DOEA shall be prepared to report on the status of its examination program for the previous quarter and any period prior thereto that has not previously been reported to the Council.

VIII. Each DOEA will promptly furnish a copy of the Examination report, relating to Covered Securities, of any examination made pursuant to the provisions of this Agreement to each other Participant of which the Common Member examined is a member.

IX. Each DOEA's Regulatory Responsibility shall for each Common Member allocated to it include investigations into terminations ''for cause'' of associated persons relating to Covered Securities, unless such termination is related solely to another Participant's market. In the latter instance, that Participant to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding a Covered Security-related termination for cause, the other Participants of which the Common Member is a member shall furnish, upon request, copies of all pertinent materials related thereto in their possession. As used in this Section, ''for cause'' shall include, without limitation, terminations characterized on Form U5 under the label ''Permitted to Resign,'' ''Discharge'' or ''Other.''

X. Each DOEA shall discharge the Regulatory Responsibility for each Common Member allocated to it relative to a Covered Securities-related customer complaint [2] unless such complaint is uniquely related to another Participant's market. In the latter instance, the DOEA shall forward the matter to that Participant to whose market the matter relates, and the latter shall discharge Regulatory Responsibility with respect thereto. If a Participant receives a customer complaint for a Common Member related to a Covered Security for which the Participant is not the DOEA, the Participant shall promptly forward a copy of such complaint to the DOEA.

XI. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, or by a comparable means of electronic communication to each Participant entitled to receipt thereof, to the attention of the Participant's representative on the Council at the Participant's then principal office or by email at such address as the representative shall have filed in writing with the Chair.

XII. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Council.

XIII. This Agreement may be amended to add a new Participant provided that such Participant does not assume Regulatory Responsibility, solely by an amendment by FINRA and such new Participant. All other Participants expressly consent to allow FINRA to add new Participants to this Agreement as provided above. FINRA will promptly notify all Participants of any such amendments to add new Participants. All other amendments to this Agreement must be approved in writing by each Participant. All amendments, including adding a new Participant, must be filed with and approved by the SEC before they become effective.

XIV. Any of the Participants may manifest its intention to cancel its participation in this Agreement at any time by giving the Council written notice thereof at least 90 days prior to the effective date of such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, any Common Members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above; the petitioning Participant shall retain all its rights, privileges, duties and obligations hereunder.

XV. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, provided that in the event a notice of cancellation is received from a Participant that, assuming the effectiveness thereof, would result in there being just one remaining member of the Council, notice to the Commission of termination of this Agreement shall be given promptly upon the receipt of such notice of cancellation, which termination shall be effective upon the effectiveness of the cancellation that triggered the notice of termination to the Commission.

XVI. No Participant nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the Participants or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

XVII. Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the Participants join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those Participants which are from time to time participants in this Agreement which are not the DOEA as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

[2] For purposes of complaints, they can be reported pursuant to Form U4, Form U5 or RE–3 and any amendments thereto.

**EXHIBIT A**

**RULES ENFORCED UNDER 17d–2 AGREEMENT**

Pursuant to Section II of the Agreement by and among Cboe BZX Exchange, Inc. (''BZX''), BOX Exchange, LLC (''BOX''), Cboe Exchange, Inc. (''Cboe''), Cboe C2 Exchange, Inc. (''C2''), Nasdaq ISE, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''MIAX''), The Nasdaq Stock Market LLC (''Nasdaq''), Nasdaq BX, Inc. (''BX''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE ARCA''), Nasdaq PHLX LLC (''PHLX''), Nasdaq GEMX, LLC (''GEMX''), Cboe EDGX Exchange, Inc. (''EDGX''), Nasdaq MRX, LLC (''MRX''), MIAX PEARL, LLC (''MIAX PEARL'') [and], MIAX Emerald, LLC (''MIAX Emerald'') *and MEMX LLC (''MEMX'')* pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 dated [January 2, 2019]*September 20, 2022* (the ''Agreement''), a revised list of the current Common Rules of each Participant, as compared to those of FINRA, applicable to the conduct of accounts for Covered Securities is set forth in this Exhibit A.

OPENING OF ACCOUNTS

| | |
|---|---|
| NYSE American | Rules 411, 921 and 1101. |
| BZX | Rule 26.2. |
| BOX | Rule 4020. |
| Cboe | Rule [9.7]*9.1*. |
| C2 * | Cboe Rule [9.7]*9.1*. |
| EDGX | Rule 26.2. |
| ISE | [Rule 608] *Options 10, Section 6*. |
| FINRA | Rules 2360(b)(16) and 2352. |
| *MEMX* | *Rule 26.2*. |
| MIAX | Rule 1307. |
| MIAX PEARL | Rule 1307. |
| MIAX Emerald | Rule 1307. |
| GEMX | [Rule 608] *Options 10, Section 6*. |
| MRX | [Rule 608] *Options 10, Section 6*. |
| PHLX | [Rule 1024(b) and (c)]*Options 10, Section 6*.[1] |
| NYSE ARCA | [Options] Rules 9.2–O(a) [and], 9.18–O(b) [and], [Equities Rules] 9.18–E(b) and 8.4–E |
| BX | [Chapter XI, Section 7]*Options 10, Section 6*. |
| Nasdaq | [Chapter XI, Section 7]*Options 10, Section 6*. |

SUPERVISION

| | |
|---|---|
| NYSE American | Rules 411, 922 and 1104. |
| BZX | Rule 26.3. |
| BOX | Rule 4030. |
| Cboe | Rule [9.8]*9.2*.[2] |
| C2 * | Cboe Rule [9.8]*9.2*.[2] |
| EDGX | Rule 26.3. |
| ISE | [Rule 609]*Options 10, Section 7*. |
| FINRA | Rules 2360(b)(20), 2360(b)(17)(B), 2360(b)(16)(E), 2355 and 2358. |
| *MEMX* | *Rule 26.3*. |
| MIAX | Rule 1308. |
| MIAX PEARL | Rule 1308. |
| MIAX Emerald | Rule 1308. |
| GEMX | [Rule 609]*Options 10, Section 7*. |
| MRX | [Rule 609]*Options 10, Section 7*. |
| PHLX | [Rule 1025]*Options 10, Section 7*. |
| NYSE ARCA | [Options] Rules 9.2–O(b) [and], 9.18–O (d)(2)(G) and [Equities Rule] 8.7–E. |
| BX | [Chapter XI, Section 8]*Options 10, Section 7*. |
| Nasdaq | [Chapter XI, Section 8]*Options 10, Section 7*. |

[1] FINRA shall not have any Regulatory Responsibility regarding foreign currency option requirements specified in any of the PHLX rules in this Exhibit A.

[2] FINRA shall not have any Regulatory Responsibility regarding receipt of written reports by April 1 of each year pursuant to Cboe Rule 9.8(g).

SUITABILITY

| | |
|---|---|
| NYSE American | Rules 923 and 1102. |
| BZX | Rule 26.4. |
| BOX | Rule 4040. |
| Cboe | Rule [9.9]*9.3*. |
| C2 * | Cboe Rule [9.9]*9.3*. |
| EDGX | Rule 26.4. |
| ISE | [Rule 610]*Options 10, Section 8*. |
| FINRA | Rule 2360(b)(19) and 2353. |
| *MEMX* | *Rule 26.4*. |
| MIAX | Rule 1309. |
| MIAX PEARL | Rule 1309. |
| MIAX Emerald | Rule 1309. |

SUITABILITY—Continued

| | |
|---|---|
| GEMX | [Rule 610]*Options 10, Section 8.* |
| MRX | [Rule 610]*Options 10, Section 8.* |
| PHLX | [Rule 1026]*Options 10, Section 8.* |
| NYSE ARCA | [Options] Rule*s* 9.18–O(c) [and], [Equities Rules] 9.18–E(c) and 8.5–E. |
| BX | [Chapter XI, Section 9]*Options 10, Section 8.* |
| Nasdaq | [Chapter XI, Section 9]*Options 10, Section 8.* |

DISCRETIONARY ACCOUNTS

| | |
|---|---|
| NYSE American | Rules 421, 924 and 1103. |
| BZX | Rule 26.5[3]. |
| BOX | Rule 4050. |
| Cboe | Rule [9.10]*9.4.* |
| C2* | Cboe Rule [9.10]*9.4.* |
| EDGX | Rule 26.5[3]. |
| ISE | [Rule 611]*Options 10, Section 9.* |
| FINRA | Rules 2360(b)(18) and 2354. |
| *MEMX* | *Rule 26.5*[3]. |
| MIAX | Rule 1310. |
| MIAX PEARL | Rule 1310. |
| MIAX Emerald | Rule 1310. |
| GEMX | [Rule 611]*Options 10, Section 9.* |
| MRX | [Rule 611]*Options 10, Section 9.* |
| PHLX | [Rule 1027]*Options 10, Section 9.* |
| NYSE ARCA | [Options ]Rule*s* 9.18–O(e) [and], [Equities Rules] 9.18–E(e) and 8.6–E. |
| BX | [Chapter XI, Section 10]*Options 10, Section 9.* |
| Nasdaq | [Chapter XI, Section 10]*Options 10, Section 9.* |

[3] FINRA shall not have any Regulatory Responsibility to enforce this rule as to time and price discretion in institutional accounts.

CUSTOMER COMMUNICATIONS (ADVERTISING)

| | |
|---|---|
| NYSE American | Rules 8.9E, 991 and 1106. |
| BZX | Rule 26.16. |
| BOX | Rule 4170. |
| Cboe | Rule [9.21]*9.15.* |
| C2* | Cboe Rule [9.21]*9.15.* |
| EDGX | Rule 26.16. |
| ISE | [Rule 623]*Options 10, Section 20.* |
| FINRA | Rules 2220 and 2357. |
| *MEMX* | *Rule 26.16.* |
| MIAX | Rule 1322. |
| MIAX PEARL | Rule 1322. |
| MIAX Emerald | Rule 1322. |
| GEMX | [Rule 623]*Options 10, Section 20.* |
| MRX | [Rule 623]*Options 10, Section 20.* |
| PHLX | [Rule 1049]*Options 10, Section 20.* |
| NYSE ARCA | [Options] Rules 9.21–O(a), 9.21–O(b), 9.28–O and 9.28–E. |
| BX | [Chapter XI, Section 22]*Options 10, Section 20.* |
| Nasdaq | [Chapter XI, Section 22]*Options 10, Section 20.* |

CUSTOMER COMPLAINTS

| | |
|---|---|
| NYSE American | Rules 8.8E, 932 and 1105. |
| BZX | Rule 26.17. |
| BOX | Rule 4190. |
| Cboe | Rule [9.23]*9.17.* |
| C2* | Cboe Rule [9.23]*9.17.* |
| EDGX | Rule 26.17. |
| ISE | [Rule 625]*Options 10, Section 22.* |
| FINRA | FINRA Rules 2360(b)(17)(A) and 2356. |
| *MEMX* | *Rule 26.17.* |
| MIAX | Rule 1324. |
| MIAX PEARL | Rule 1324. |

CUSTOMER COMPLAINTS—Continued

| | |
|---|---|
| MIAX Emerald | Rule 1324. |
| GEMX | [Rule 625]*Options 10, Section 22.* |
| MRX | [Rule 625]*Options 10, Section 22.* |
| PHLX | [Rule 1028]*Options 10, Section 22.* |
| NYSE ARCA | [Options] Rule*s* 9.18–O(l) [and], [Equities Rules] 9.18–E(l) and 8.8–E. |
| BX | [Chapter XI, Section 24]*Options 10, Section 22.* |
| Nasdaq | [Chapter XI, Section 24]*Options 10, Section 22.* |

CUSTOMER STATEMENTS

| | |
|---|---|
| NYSE American | Rules 419 and 930. |
| BZX | Rule 26.7. |
| BOX | Rule 4070. |
| Cboe | Rule [9.12]*9.6.* |
| C2 * | Cboe Rule [9.12]*9.6.* |
| EDGX | Rule 26.7. |
| ISE | [Rule 613]*Options 10, Section 11.* |
| FINRA | Rule 2360(b)(15). |
| *MEMX* | *Rule 26.7.* |
| MIAX | Rule 1312. |
| MIAX PEARL | Rule 1312. |
| MIAX Emerald | Rule 1312. |
| GEMX | [Rule 613]*Options 10, Section 11.* |
| MRX | [Rule 613]*Options 10, Section 11.* |
| PHLX | [Rule 1032]*Options 10, Section 11.* |
| NYSE ARCA | [Options] Rule*s* 9.18–O(j) and [Equities Rule] 9.18–E(j). |
| BX | [Chapter XI, Section 12]*Options 10, Section 11.* |
| Nasdaq | [Chapter XI, Section 12]*Options 10, Section 11.* |

CONFIRMATIONS

| | |
|---|---|
| NYSE American | Rule 925. |
| BZX | Rule 26.6. |
| BOX | Rule 4060. |
| Cboe | Rule [9.11]*9.5.* |
| C2 * | Cboe Rule [9.11]*9.5.* |
| EDGX | Rule 26.6. |
| ISE | [Rule 612]*Options 10, Section 10.* |
| FINRA | Rule 2360(b)(12). |
| *MEMX* | *Rule 26.6.* |
| MIAX | Rule 1311. |
| MIAX PEARL | Rule 1311. |
| MIAX Emerald | Rule 1311. |
| GEMX | [Rule 612]*Options 10, Section 10.* |
| MRX | [Rule 612]*Options 10, Section 10.* |
| PHLX | [Rule 1028]*Options 10, Section 10.* |
| NYSE ARCA | [Options] Rule*s* 9.18–O(f) and [Equities Rule] 9.18–E(f). |
| BX | [Chapter XI, Section 11]*Options 10, Section 10.* |
| Nasdaq | [Chapter XI, Section 11]*Options 10, Section 10.* |

ALLOCATION OF EXERCISE ASSIGNMENT NOTICES

| | |
|---|---|
| NYSE American | Rule 981. |
| BZX | Rule 23.2. |
| BOX | Rule 9010. |
| Cboe | Rule [11.2]*6.21.* |
| C2 * | Cboe Rule [11.2]*6.21.* |
| EDGX | Rule 23.2. |
| ISE | [Rule 1101]*Options 6B, Section 2.* |
| FINRA | Rule 2360(b)(23)(C). |
| *MEMX* | *Rule 23.2.* |
| MIAX | Rule 701. |
| MIAX PEARL | Rule 701. |

ALLOCATION OF EXERCISE ASSIGNMENT NOTICES—Continued

| | |
|---|---|
| MIAX Emerald | Rule 701. |
| GEMX | [Rule 1101]*Options 6B, Section 2.* |
| MRX | [Rule 1101]*Options 6B, Section 2.* |
| PHLX | [Rule 1043]*Options 6B, Section 2.* |
| NYSE ARCA | [Options] Rule 6.25–O(a). |
| BX | [Chapter VIII, Section 2]*Options 6B, Section 2.* |
| Nasdaq | [Chapter VIII, Section 2]*Options 6B, Section 2.* |

DISCLOSURE DOCUMENTS

| | |
|---|---|
| NYSE American | Rules 921 and 926. |
| BZX | Rule 26.10. |
| BOX | Rule 4100. |
| Cboe | Rule [9.15]9.9. |
| C2 * | Cboe Rule [9.15]*9.9.* |
| EDGX | Rule 26.10. |
| ISE | [Rule 616]*Options 10, Section 13.* |
| FINRA | Rule 2360(b)(11). |
| *MEMX* | *Rule 26.10.* |
| MIAX | Rule 1315. |
| MIAX PEARL | Rule 1315. |
| MIAX Emerald | Rule 1315. |
| GEMX | [Rule 616]*Options 10, Section 13.* |
| MRX | [Rule 616]*Options 10, Section 13.* |
| PHLX | [Rule 102(b)(v), 1029]*Options 10, Section 13.* |
| NYSE ARCA | [Options] Rule*s* 9.18–O(g) and [Equities Rule] 9.18–E(g). |
| BX | [Chapter XI, Section 15]*Options 10, Section 13.* |
| Nasdaq | [Chapter XI, Section 15]*Options 10, Section 13.* |

BRANCH OFFICES OF MEMBER ORGANIZATIONS

| | |
|---|---|
| NYSE American | Rule 922[4]. |
| BOX | Rule 4010(b). |
| Cboe | Rule [9.6]*3.40.* |
| C2 * | Cboe Rule [9.6]*3.40.* |
| ISE | [Rule 607]*Options 10, Section 5.* |
| FINRA | Rules 2360(b)(20)(B) and 2355. |
| MIAX | Rule 1306. |
| MIAX PEARL | Rule 1306. |
| MIAX Emerald | Rule 1306. |
| GEMX | [Rule 607]*Options 10, Section 5.* |
| MRX | [Rule 607]*Options 10, Section 5.* |
| PHLX | N/A. |
| NYSE ARCA | [Options] Rule*s* 9.18–O(m) and [Equities Rule] 9.18–E(m). |
| BX | [Chapter XI, Section 6]*Options 10, Section 5.* |
| Nasdaq | [Chapter XI, Section 6]*Options 10, Section 5.* |

[4] FINRA shall only have Regulatory Responsibility for the first paragraph and shall not have any Regulatory Responsibility regarding the requirements for debt options.

PROHIBITION AGAINST GUARANTEES

| | |
|---|---|
| NYSE American | Rule 390. |
| BZX | Rule 26.13. |
| BOX | Rule 4130. |
| Cboe | Rule [9.18]*9.12.* |
| C2 * | Cboe Rule [9.18]*9.12.* |
| EDGX | Rule 26.13. |
| ISE | [Rule 619]*Options 10, Section 16.* |
| FINRA | Rule 2150(b). |
| *MEMX* | *Rule 26.13.* |
| MIAX | Rule 1318. |
| MIAX PEARL | Rule 1318. |
| MIAX Emerald | Rule 1318. |

PROHIBITION AGAINST GUARANTEES—Continued

| | |
|---|---|
| GEMX | [Rule 619]*Options 10, Section 16.* |
| MRX | [Rule 619]*Options 10, Section 16.* |
| PHLX | [Rule 777]*General 9, Section 54(b).* |
| NYSE ARCA | [Options] Rule*s* 9.1–O(e), [Equities Rules] 9.1–E(e) and 9.2150–E(b). |
| BX | [Chapter XI, Sections 18 and 19]*Options 10, Section 16.* |
| Nasdaq | [Chapter XI, Sections 18 and 19]*Options 10, Section 16.* |

SHARING IN ACCOUNTS

| | |
|---|---|
| NYSE American | Rule 390. |
| BZX | Rule 26.14[5]. |
| BOX | Rule 4140. |
| Cboe | Rule [9.18(b)]*9.12(b).* |
| C2* | Cboe Rule [9.18(b)]*9.12(b).* |
| EDGX | Rule 26.14[5]. |
| ISE | [Rule 620]*Options 10, Section 17*[6]. |
| FINRA | Rule 2150(c). |
| *MEMX* | *Rule 26.14*[5]. |
| MIAX | Rule 1319. |
| MIAX PEARL | Rule 1319. |
| MIAX Emerald | Rule 1319. |
| GEMX | [Rule 620]*Options 10, Section 17*[6]. |
| MRX | [Rule 620]*Options 10, Section 17*[6]. |
| PHLX | N/A. |
| NYSE ARCA | [Options] Rule*s* 9.1–O(f) and [Equities Rule] 9.2150–E(c). |
| BX | [Chapter XI, Section 19]*Options 10, Section 17*[6]. |
| Nasdaq | [Chapter XI, Section 19]*Options 10, Section 17*[6]. |

[5] FINRA shall not have any Regulatory Responsibility regarding *MEMX's*, BZX's, and EDGX's requirements to the extent such rules do not contain an exemption addressing immediate family.

[6] FINRA shall not have any Regulatory Responsibility regarding Nasdaq's, BX's, ISE's, GEMX's and MRX's requirements to the extent its rule does not permit sharing in the profits and losses of an account upon prior written consent from the customer, or contain an exemption addressing immediate family.

REGISTRATION OF ROP

| | |
|---|---|
| NYSE American | Rule*s* 920 *and 2.1220(a)(7)(A).* |
| BZX | Rule 17.2(g)(1), (2), (6) and (7). |
| BOX | Rule 2020(c)(1). |
| Cboe | Rule [9.2]*3.36.* |
| C2* | Cboe Rule [9.2]*3.36.* |
| EDGX | Rule 17.2(g)(1), (2), (6) and (7). |
| ISE | [Rule 601]*Options 10, Section 2.* |
| FINRA | Rule 1220(a)(8). |
| *MEMX* | *Rule 17.2(g)(1), (2), (6) and (7).* |
| MIAX | Rule 1301. |
| MIAX PEARL | Rule 1301. |
| MIAX Emerald | Rule 1301. |
| GEMX | [Rule 601]*Options 10, Section 2.* |
| MRX | [Rule 601]*Options 10, Section 2.* |
| PHLX | [Rule 1024(a)(i)]*Options 10, Section 2.* |
| NYSE ARCA | [Options] Rule*s* 9.26–O, [Equities Rule] 9.26–E and 2.1220(a)(7)(A). |
| BX | [Chapter XI, Section 2 and Chapter II, Section 2(g)]*Options 10, Section 2.* |
| Nasdaq | [Chapter XI, Section 2 and Chapter II, Section 2(g)]*Options 10, Section 2.* |

CERTIFICATION OF REGISTERED PERSONNEL

| | |
|---|---|
| NYSE American | Rule*s* 920 *and 1220(b).* |
| BZX | Rule 2.5 Interpretation .01(c) and 11.4(e). |
| BOX | IM–2040–3. |
| Cboe | Rule [9.3]*3.37.* |
| C2* | Cboe Rule [9.3]*3.37.* |
| EDGX | Rule 2.5 Interpretation .01(c) and 11.4(e). |
| ISE | [Rule 602]*Options 10, Section 3.* |
| FINRA | Rule 1220(b) and FINRA By-Laws Article V Sections 2 and 3. |

CERTIFICATION OF REGISTERED PERSONNEL—Continued

| | |
|---|---|
| *MEMX* | *Rule 2.5 Interpretation .01(c) and 11.4(e).* |
| MIAX | Rule 1302. |
| MIAX PEARL | Rule 1302. |
| MIAX Emerald | Rule 1302. |
| GEMX | [Rule 602]*Options 10, Section 3.* |
| MRX | [Rule 602]*Options 10, Section 3.* |
| PHLX | [Rule 1024]*Options 10, Section 6.* |
| NYSE ARCA | [Options] Rules 9.27–O(a), [Equities Rule] 9.27–E(a) and 2.1220(b). |
| BX | [Chapter XI, Section 2 and Chapter II, Section 2(h)]*Options 10, Section 3.* |
| Nasdaq | [Chapter XI, Section 2 and Chapter II, Section 2(h)]*Options 10, Section 3.* |

* Cboe Options rule incorporated by reference into C2 Rulebook.

**V. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–966 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 S7–966. 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 (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan that are filed with the Commission, and all written communications relating to the proposed plan between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the plan also will be available for inspection and copying at the principal offices of BZX, BOX, C2, ISE, FINRA, MIAX, Nasdaq, BX, NYSE American, NYSE Arca, PHLX, GEMX, EDGX, MRX, MIAX PEARL, MIAX Emerald, and MEMX. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number S7–966 and should be submitted on or before November 14, 2022.

**V. Discussion**

The Commission continues to believe that the proposed plan is an achievement in cooperation among the SRO participants. The Plan, as amended, will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add MEMX as a Participant and to reflect the name changes of certain Participating Organizations. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[26] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

**VI. Conclusion**

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. S7–966.

*It is therefore ordered*, pursuant to Section 17(d) of the Act, that the Plan, as amended, filed with the Commission pursuant to Rule 17d–2 on September 20, 2022, is hereby approved and declared effective.

*It is further ordered* that those SRO participants that are not the DOEA as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOEA under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–22988 Filed 10–21–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–96102; File No. 4–698]**

## Joint Industry Plan; Notice of Withdrawal of Amendment to the National Market System Plan Governing the Consolidated Audit Trail

October 19, 2022.

**I. Introduction**

On May 20, 2022, the Operating Committee for Consolidated Audit Trail, LLC (''CAT LLC''), on behalf of the following parties to the National Market

[26] *See* Securities Exchange Act Release No. 85106 (February 12, 2019), 84 FR 4554 (February 15, 2019).

[27] 17 CFR 200.30–3(a)(34).

System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan''): [1] BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MEMX LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively, the ''Participants'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 11A(a)(3) of the Exchange Act,[2] and Rule 608 thereunder,[3] a proposed amendment (''Proposed Amendment'') to the CAT NMS Plan that would authorize CAT LLC to revise the Consolidated Audit Trail Reporter Agreement and the Consolidated Audit Trail Reporter Agent Agreement by: (1) removing the arbitration provision from each agreement and replacing it with a forum selection provision, which would require that any dispute regarding CAT reporting be filed in a United States District Court for the Southern District of New York, or, in the absence of federal subject matter jurisdiction, a New York State Supreme Court within the First Judicial Department; (2) adding a jury waiver provision; (3) adding a disclaimer of warranties clause; and (4) revising the existing choice of law clause to provide that any dispute will be governed by federal law (in addition to New York law).[4] The Proposed Amendment was published for comment in the **Federal Register** on June 9, 2022.[5]

The Commission is publishing this notice to reflect that on September 6, 2022, prior to the end of the 90-day period provided for in Exchange Act Rule 608(b)(2)(i),[6] the Participants withdrew the Proposed Amendment.[7]

By the Commission.

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–23071 Filed 10–21–22; 8:45 am]

**BILLING CODE 8011–01–P**

[1] The CAT NMS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Securities Exchange Act of 1934 (''Exchange Act'') and the rules and regulations thereunder. *See* Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016). The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company (CAT LLC) formed under Delaware state law through which the Participants conduct the activities of the CAT. On August 29, 2019, the Participants replaced the CAT NMS Plan in its entirety with the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC. The latest version of the CAT NMS Plan is available at *https://catnmsplan.com/about-cat/cat-nms-plan.*

[2] 15 U.S.C. 78k–1(a)(3).

[3] 17 CFR 242.608.

[4] *See* Letter from Michael Simon, Chair, CAT NMS Plan Operating Committee, to Vanessa Countryman, Secretary, Commission, dated May 20, 2022.

[5] *See* Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail, Securities Exchange Act Release No. 95031 (June 3, 2022), 87 FR 35273 (June 9, 2022) (''Notice''). Comments received in response to the Notice can be found on the Commission's website at *https://www.sec.gov/comments/4-698/4-698-b.htm.*

[6] 17 CFR 242.608(b)(2)(i).

[7] *See* Letter from Michael Simon, Chair, CAT NMS Plan Operating Committee, to Vanessa Countryman, Secretary, Commission, dated September 6, 2022.

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17677 and #17678; ILLINOIS Disaster Number IL–00071]**

### Presidential Declaration of a Major Disaster for the State of Illinois

**AGENCY:** Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA–4676–DR), dated 10/14/2022.

*Incident:* Severe Storm and Flooding.

*Incident Period:* 07/25/2022 through 07/28/2022.

**DATES:** Issued on 10/14/2022.

*Physical Loan Application Deadline Date:* 12/13/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/14/2023.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 10/14/2022, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Saint Clair.

*Contiguous Counties (Economic Injury Loans Only):*

Illinois: Clinton, Madison, Monroe, Randolph, Washington.

Missouri: Saint Louis, Saint Louis City.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners with Credit Available Elsewhere | 3.375 |
| Homeowners without Credit Available Elsewhere | 1.688 |
| Businesses with Credit Available Elsewhere | 5.870 |
| Businesses without Credit Available Elsewhere | 2.935 |
| Non-Profit Organizations with Credit Available Elsewhere | 1.875 |
| Non-Profit Organizations without Credit Available Elsewhere | 1.875 |
| *For Economic Injury:* | |
| Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere | 2.935 |
| Non-Profit Organizations without Credit Available Elsewhere | 1.875 |

The number assigned to this disaster for physical damage is 17677 6 and for economic injury is 17678 0.

(Catalog of Federal Domestic Assistance Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2022–23060 Filed 10–21–22; 8:45 am]

**BILLING CODE 8026–09–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17644 and #17645; FLORIDA Disaster Number FL–00178]**

### Presidential Declaration Amendment of a Major Disaster for the State of Florida

**AGENCY:** Small Business Administration.

**ACTION:** Amendment 6.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–4673–DR), dated 09/29/2022.

*Incident:* Hurricane Ian.

*Incident Period:* 09/23/2022 and continuing.

**DATES:** Issued on 10/14/2022.

*Physical Loan Application Deadline Date:* 11/28/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/29/2023.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business

Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Florida, dated 09/29/2022, is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Glades, Pasco.

*Contiguous Counties (Economic Injury Loans Only):*

Florida: Hernando.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2022–23058 Filed 10–21–22; 8:45 am]

**BILLING CODE 8026–09–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17667 and #17668; FLORIDA Disaster Number FL–00180]**

### Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Florida

**AGENCY:** Small Business Administration.

**ACTION:** Amendment 4.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Florida (FEMA–4673–DR), dated 10/03/2022.

*Incident:* Hurricane Ian.

*Incident Period:* 09/23/2022 and continuing.

**DATES:** Issued on 10/14/2022.

*Physical Loan Application Deadline Date:* 12/02/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 07/03/2023.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Florida, dated 10/03/2022, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Sumter.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2022–23059 Filed 10–21–22; 8:45 am]

**BILLING CODE 8026–09–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #17614 and #17615; ARIZONA Disaster Number AZ–00083]**

### Presidential Declaration Amendment of a Major Disaster for the State of Arizona

**AGENCY:** Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Arizona (FEMA–4668–DR), dated 09/02/2022.

*Incident:* Severe Storms.

*Incident Period:* 07/17/2022 through 07/18/2022.

**DATES:** Issued on 10/14/2022.

*Physical Loan Application Deadline Date:* 11/03/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/02/2023.

**ADDRESSES:** Submit completed loan applications to:

U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of ARIZONA, dated 09/02/2022, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 11/03/2022.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Rafaela Monchek,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2022–23061 Filed 10–21–22; 8:45 am]

**BILLING CODE 8026–09–P**

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA–2022–0045]**

### Cost-of-Living Increase and Other Determinations for 2023

**AGENCY:** Social Security Administration.

**ACTION:** Notice.

**SUMMARY:** Under title II of the Social Security Act (Act), there will be an 8.7 percent cost-of-living increase in Social Security benefits effective December 2022. In addition, the national average wage index for 2021 is $60,575.07. The cost-of-living increase and national average wage index affect other program parameters as described below.

**FOR FURTHER INFORMATION CONTACT:** Kathleen K. Sutton, Office of the Chief Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3000. Information relating to this announcement is available at *www.ssa.gov/oact/cola/index.html.* For information on eligibility or claiming benefits, call 1–800–772–1213 (TTY 1–800–325–0778) or visit *www.ssa.gov.*

**SUPPLEMENTARY INFORMATION:** Because of the 8.7 percent cost-of-living increase, the following items will increase for 2023:

(1) The maximum Federal Supplemental Security Income (SSI) monthly payment amounts for 2023 under title XVI of the Act will be $914 for an eligible individual; $1,371 for an eligible individual with an eligible spouse; and $458 for an essential person.

(2) The special benefit amount under title VIII of the Act for certain World War II (WWII) veterans will be $685.50 for 2023.

(3) The student earned income exclusion under title XVI of the Act will be $2,220 per month in 2023, but not more than $8,950 for all of 2023.

(4) The dollar fee limit for services performed as a representative payee will be $52 per month ($97 per month in the case of a beneficiary who is determined to be disabled and has an alcoholism or drug addiction condition that leaves them incapable of managing benefits) in 2023.

(5) The assessment (or ''user fee'') dollar limit on the administrative cost charged when the agency pays authorized representative fees directly out of a claimant's past due benefits will be $113, beginning in December 2022.

The national average wage index for 2021 is $60,575.07. This index affects the following amounts:

(1) The Old-Age, Survivors, and Disability Insurance (OASDI)

contribution and benefit base will be $160,200 for remuneration paid in 2023 and self-employment income earned in tax years beginning in 2023.

(2) The monthly exempt amounts under the OASDI retirement earnings test for tax years ending in calendar year 2023 will be $1,770 for beneficiaries who will attain their Normal Retirement Age (NRA) (defined in the *Retirement Earnings Test Exempt Amounts* section below) after 2023 and $4,710 for those who attain NRA in 2023.

(3) The dollar amounts (bend points) used in the primary insurance amount (PIA) formula for workers who become eligible for benefits or who die before becoming eligible, in 2023, will be $1,115 and $6,721.

(4) The bend points used in the formula for computing maximum family benefits for workers who become eligible for retirement benefits, or who die before becoming eligible, in 2023, will be $1,425, $2,056, and $2,682.

(5) The taxable earnings a person must have in 2023 to be credited with a quarter of coverage will be $1,640.

(6) The ''old-law'' contribution and benefit base under title II of the Act will be $118,800 for 2023.

(7) The monthly amount of earnings deemed to constitute substantial gainful activity (SGA) for statutorily blind people in 2023 will be $2,460. The corresponding amount of earnings for non-blind people with a determined disability will be $1,470.

(8) The earnings threshold establishing a month as a part of a trial work period will be $1,050 for 2023.

(9) Coverage thresholds for 2023 will be $2,600 for domestic workers and $2,200 for election officials and election workers.

According to section 215(i)(2)(D) of the Act, we must publish the benefit increase percentage and the revised table of ''special minimum'' benefits within 45 days after the close of the third calendar quarter of 2022.

We must also publish the following by November 1: the national average wage index for 2021 (215(a)(1)(D)), the OASDI fund ratio for 2022 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 2023 (section 230(a)), the earnings required to be credited with a quarter of coverage in 2023 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 2023 (section 203(f)(8)(A)), the formula for computing a PIA for workers who first become eligible for benefits or die in 2023 (section 215(a)(1)(D)), and the formula for computing the maximum benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 2023 (section 203(a)(2)(C)).

**Cost-of-Living Increases**

*General*

The cost-of-living increase is 8.7 percent for monthly benefits under title II and for monthly payments under title XVI of the Act. Under title II, OASDI monthly benefits will increase by 8.7 percent for individuals eligible for December 2022 benefits, payable in January 2023 and thereafter. We base this increase on the authority contained in section 215(i) of the Act.

Pursuant to section 1617 of the Act, Federal SSI benefit rates will also increase by 8.7 percent effective for payments made for January 2023 but paid on December 30, 2022.

*Computation*

Computation of the cost-of-living increase is based on an increase in a Consumer Price Index (CPI) produced by the Bureau of Labor Statistics. At the time the Act was amended to provide automatic cost-of-living increases starting in 1975, only one CPI existed, namely the index now referred to as CPI for Urban Wage Earners and Clerical Workers (CPI–W). Although the Bureau of Labor Statistics has since developed other CPIs, we follow precedent by continuing to use the CPI–W. We refer to this index in the following paragraphs as the CPI.

Section 215(i)(1)(B) of the Act defines a ''computation quarter'' to be a third calendar quarter in which the average CPI exceeded the average CPI in the previous computation quarter. The last cost-of-living increase, effective for those eligible to receive title II benefits for December 2021, was based on the CPI increase from the third quarter of 2020 to the third quarter of 2021. Therefore, the last computation quarter is the third quarter of 2021. The law states that a cost-of-living increase for benefits is determined based on the percentage increase, if any, in the CPI from the last computation quarter to the third quarter of the current year. Therefore, we compute the increase in the CPI from the third quarter of 2021 to the third quarter of 2022.

Section 215(i)(1) of the Act states that the CPI for a cost-of-living computation quarter is the arithmetic mean of this index for the 3 months in that quarter. In accordance with 20 CFR 404.275, we round the arithmetic mean, if necessary, to the nearest 0.001. The CPI for each month in the quarter ending September 30, 2021, the last computation quarter, is: for July 2021, 267.789; for August 2021, 268.387; and for September 2021, 269.086. The arithmetic mean for the calendar quarter ending September 30, 2021, is 268.421. The CPI for each month in the quarter ending September 30, 2022, is: for July 2022, 292.219; for August 2022, 291.629; and for September 2022, 291.854. The arithmetic mean for the calendar quarter ending September 30, 2022, is 291.901. The CPI for the calendar quarter ending September 30, 2022, exceeds that for the calendar quarter ending September 30, 2021, by 8.7 percent (rounded to the nearest 0.1). Therefore, beginning December 2022, a cost-of-living benefit increase of 8.7 percent is effective for benefits under title II of the Act.

Section 215(i) also specifies that a benefit increase under title II, effective for December of any year, will be limited to the increase in the national average wage index for the prior year if the OASDI fund ratio for that year is below 20.0 percent. The OASDI fund ratio for a year is the ratio of the combined asset reserves of the OASI and DI Trust Funds at the beginning of that year to the combined cost of the programs during that year. For 2022, the OASDI fund ratio is reserves of $2,852,030 million divided by estimated cost of $1,242,246 million, or 229.6 percent. Because the 229.6 percent OASDI fund ratio exceeds 20.0 percent, the benefit increase for December 2022 is not limited to the increase in the national average wage index.

**Program Amounts That Change Based on the Cost-of-Living Increase**

The following program amounts change based on the cost-of-living increase: (1) title II benefits; (2) title XVI payments; (3) title VIII benefits; (4) the student earned income exclusion; (5) the fee for services performed by a representative payee; and (6) the appointed representative fee assessment.

*Title II Benefit Amounts*

In accordance with section 215(i) of the Act, for workers and family members for whom eligibility for benefits (that is, the worker's attainment of age 62, or disability or death before age 62) occurred before 2023, benefits will increase by 8.7 percent beginning with benefits for December 2022, which are payable in January 2023. For those first eligible after 2022, the 8.7 percent increase will not apply.

For eligibility after 1978, we determine benefits using a formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, we determine benefits by using a benefit

table. The table is available at *www.ssa.gov/oact/ProgData/tableForm.html* or by writing to: Social Security Administration, Office of Public Inquiries, Windsor Park Building, 6401 Security Boulevard, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act requires that, when we determine an increase in Social Security benefits, we will publish in the **Federal Register** a revision of the range of the PIAs and maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). We refer to these benefits as ''special minimum'' benefits. These benefits are payable to certain individuals with long periods of low earnings. To qualify for these benefits, an individual must have at least 11 years of coverage. To earn a year of coverage for purposes of the special minimum benefit, a person must earn at least a certain proportion of the old-law contribution and benefit base (described later in this notice). For years before 1991, the proportion is 25 percent; for years after 1990, it is 15 percent. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of PIAs and maximum family benefit amounts after the 8.7 percent benefit increase.

SPECIAL MINIMUM PIAS AND MAXIMUM FAMILY BENEFITS PAYABLE FOR DECEMBER 2022

| Number of years of coverage | PIA | Maximum family benefit |
|---|---|---|
| 11 | $49.40 | $75.40 |
| 12 | 101.10 | 153.30 |
| 13 | 153.10 | 231.30 |
| 14 | 204.60 | 308.70 |
| 15 | 256.00 | 385.90 |
| 16 | 308.20 | 463.90 |
| 17 | 360.00 | 542.10 |
| 18 | 411.70 | 619.40 |
| 19 | 463.40 | 697.30 |
| 20 | 515.50 | 774.30 |
| 21 | 567.30 | 852.90 |
| 22 | 618.70 | 930.10 |
| 23 | 671.40 | 1,009.20 |
| 24 | 723.00 | 1,086.10 |
| 25 | 774.30 | 1,163.30 |
| 26 | 827.00 | 1,242.10 |
| 27 | 878.10 | 1,319.70 |
| 28 | 929.90 | 1,397.00 |
| 29 | 981.80 | 1,475.30 |
| 30 | 1,033.50 | 1,552.10 |

*Title XVI Payment Amounts*

In accordance with section 1617 of the Act, the Federal benefit rates used in computing Federal SSI payments for the aged, blind, and disabled will increase by 8.7 percent effective January 2023. For 2022, we determined the monthly payment amounts to be —$841 for an eligible individual, $1,261 for an eligible individual with an eligible spouse, and $421 for an essential person. These amounts were derived from yearly, unrounded Federal SSI payment amounts of $10,092.40, $15,136.93, and $5,057.77, respectively. For 2023, these yearly unrounded amounts increase by 8.7 percent to $10,970.44, $16,453.84, and $5,497.80, respectively. We must round each of these resulting amounts, when not a multiple of $12, to the next lower multiple of $12. Therefore, the annual amounts, effective for 2023, are $10,968, $16,452, and $5,496. Dividing the yearly amounts by 12 gives the respective monthly amounts for 2023—$914, $1,371, and $458. For an eligible individual with an eligible spouse, we equally divide the amount payable between the two spouses.

*Title VIII Benefit Amount*

Title VIII of the Act provides for special benefits to certain WWII veterans who reside outside the United States. Section 805 of the Act provides that ''[t]he benefit under this title payable to a qualified individual for any month shall be in an amount equal to 75 percent of the Federal benefit rate [the maximum amount for an eligible individual] under title XVI for the month, reduced by the amount of the qualified individual's benefit income for the month.'' Therefore, the monthly benefit for 2023 under this provision is 75 percent of $914, or $685.50.

*Student Earned Income Exclusion*

Children who are blind or have a determined disability can have limited earnings that do not count against their SSI payments if they are students regularly attending school, college, university, or a course of vocational or technical training. The maximum amount of such income that we may exclude in 2022 is $2,040 per month, but not more than $8,230 in all of 2022. These amounts increase based on a formula set forth in regulation 20 CFR 416.1112.

To compute each of the monthly and yearly maximum amounts for 2023, we increase the unrounded amount for 2022 by the latest cost-of-living increase. If the calculated amount is not a multiple of $10, we round it to the nearest multiple of $10. The unrounded monthly amount for 2022 is $2,041.95. We increase this amount by 8.7 percent to $2,219.60, which we then round to $2,220. Similarly, we increase the unrounded yearly amount for 2022, $8,231.08, by 8.7 percent to $8,947.18 and round this to $8,950. Therefore, the maximum amount of the income exclusion applicable to a student in 2023 is $2,220 per month, but not more than $8,950 in all of 2023.

*Fee for Services Performed as a Representative Payee*

Sections 205(j)(4)(A)(i) and 1631(a)(2)(D)(i) of the Act permit a qualified organization to collect a monthly fee from a beneficiary for expenses incurred in providing services as the beneficiary's representative payee. In 2022, the fee is limited to the lesser of: (1) 10 percent of the monthly benefit involved; or (2) $48 each month ($89 each month when the beneficiary is entitled to disability benefits and has an alcoholism or drug addiction condition that makes the individual incapable of managing such benefits). The dollar fee limits are subject to increase by the cost-of-living increase, with the resulting amounts rounded to the nearest whole dollar amount. Therefore, we increase the current amounts by 8.7 percent to $52 and $97 for 2023.

*Appointed Representative Fee Assessment*

Under sections 206(d) and 1631(d) of the Act, whenever the agency pays authorized representative fees directly out of a claimant's past due benefits, we must impose an assessment (or ''user fee'') to cover administrative costs. The user fee applied is the lower amount of 6.3 percent of the representative's authorized fee or a dollar amount that is subject to the cost-of-living increase. We derive the dollar limit for December 2022, by increasing the unrounded limit for December 2021, $104.53, by 8.7 percent, which is $113.62. We then round $113.62 to the next lower multiple of $1. The dollar limit effective for December 2022 is, therefore, $113.

**National Average Wage Index for 2021**

*Computation*

We determined the national average wage index for calendar year 2021. It is based on the 2020 national average wage index of $55,628.60, which was published in the **Federal Register** on October 22, 2021 (86 FR 58715), and on the percentage increase in average wages from 2020 to 2021, as measured by annual wage data. We tabulate the annual wage data, including contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated from these data were $53,383.18 for 2020 and $58,129.99 for 2021. To determine the national average wage index for 2021 at a level consistent with the national average wage indexing

series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), we multiply the 2020 national average wage index of $55,628.60 by the percentage increase in average wages from 2020 to 2021 (based on SSA-tabulated wage data) as follows. We round the result to the nearest cent.

*National Average Wage Index Amount*

Multiplying the national average wage index for 2020 ($55,628.60) by the ratio of the average wage for 2021 ($58,129.99) to that for 2020 ($53,383.18) produces the 2021 index, $60,575.07. The national average wage index for calendar year 2021 is about 8.89 percent higher than the 2020 index.

Program Amounts that Change Based on the National Average Wage Index

Under the Act, the following amounts change with annual changes in the national average wage index: (1) the OASDI contribution and benefit base; (2) the exempt amounts under the retirement earnings test; (3) the dollar amounts, or bend points, in the PIA formula; (4) the bend points in the maximum family benefit formula; (5) the earnings required to credit a worker with a quarter of coverage; (6) the old-law contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments); (7) the substantial gainful activity (SGA) amount applicable to statutorily blind individuals; and (8) the coverage threshold for election officials and election workers. Additionally, under section 3121(x) of the Internal Revenue Code, the domestic employee coverage threshold is based on changes in the national average wage index.

Two amounts also increase under regulatory requirements—the SGA amount applicable to non-blind individuals with a determined disability, and the monthly earnings threshold that establishes a month as part of a trial work period for beneficiaries with a determined disability.

**OASDI Contribution and Benefit Base**

*General*

The OASDI contribution and benefit base is $160,200 for remuneration paid in 2023 and self-employment income earned in tax years beginning in 2023. The OASDI contribution and benefit base serves as the maximum annual earnings on which OASDI taxes are paid. It is also the maximum annual earnings used in determining a person's OASDI benefits.

*Computation*

Section 230(b) of the Act provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 2023 is the larger of: (1) the 1994 base of $60,600 multiplied by the ratio of the national average wage index for 2021 to that for 1992; or (2) the current base ($147,000). If the resulting amount is not a multiple of $300, we round it to the nearest multiple of $300.

*OASDI Contribution and Benefit Base Amount*

Multiplying the 1994 OASDI contribution and benefit base ($60,600) by the ratio of the national average wage index for 2021 ($60,575.07 as determined above) to that for 1992 ($22,935.42) produces $160,051.54. We round this amount to $160,200. Because $160,200 exceeds the current base amount of $147,000, the OASDI contribution and benefit base is $160,200 for 2023.

**Retirement Earnings Test Exempt Amounts**

*General*

We withhold Social Security benefits when a beneficiary under the NRA has earnings more than the applicable retirement earnings test exempt amount. The NRA is the age when retirement benefits (before rounding) are equal to the PIA. The NRA is age 66 for those born in 1943–54. It gradually increases to age 67 for those born in 1960 or later. A higher exempt amount applies in the year in which a person attains NRA, but only for earnings in months before such attainment. A lower exempt amount applies at all other ages below NRA. Section 203(f)(8)(B) of the Act provides formulas for determining the monthly exempt amounts. The annual exempt amounts are exactly 12 times the monthly amounts.

For beneficiaries who attain NRA in the year, we withhold $1 in benefits for every $3 of earnings over the annual exempt amount for months before NRA. For all other beneficiaries under NRA, we withhold $1 in benefits for every $2 of earnings over the annual exempt amount.

*Computation*

Under the formula that applies to beneficiaries attaining NRA after 2023, the lower monthly exempt amount for 2023 is the larger of: (1) the 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 2021 to that for 1992; or (2) the 2022 monthly exempt amount ($1,630). If the resulting amount is not a multiple of $10, we round it to the nearest multiple of $10.

Under the formula that applies to beneficiaries attaining NRA in 2023, the higher monthly exempt amount for 2023 is the larger of: (1) the 2002 monthly exempt amount multiplied by the ratio of the national average wage index for 2021 to that for 2000; or (2) the 2022 monthly exempt amount ($4,330). If the resulting amount is not a multiple of $10, we round it to the nearest multiple of $10.

*Lower Exempt Amount*

Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1992 ($22,935.42) produces $1,769.55. We round this to $1,770. Because $1,770 exceeds the current exempt amount of $1,630, the lower retirement earnings test monthly exempt amount is $1,770 for 2023. The lower annual exempt amount is $21,240 under the retirement earnings test.

*Higher Exempt Amount*

Multiplying the 2002 retirement earnings test monthly exempt amount of $2,500 by the ratio of the national average wage index for 2021 ($60,575.07) to that for 2000 ($32,154.82) produces $4,709.64. We round this to $4,710. Because $4,710 exceeds the current exempt amount of $4,330, the higher retirement earnings test monthly exempt amount is $4,710 for 2023. The higher annual exempt amount is $56,520 under the retirement earnings test.

**Primary Insurance Amount Formula**

*General*

The Social Security Amendments of 1977 provided a method for computing benefits that generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's average indexed monthly earnings (AIME) to compute the PIA. We adjust the formula each year to reflect changes in general wage levels, as measured by the national average wage index.

We also adjust, or index, a worker's earnings to reflect the change in the general wage levels that occurred during the worker's years of employment. Such indexing ensures that a worker's future benefit level will reflect the general rise in the standard of living that will occur during their working lifetime. To compute the AIME, we first determine the required number of years of earnings. We then select the number of years with the highest indexed earnings, add the indexed earnings for those years, and divide the total amount by the total number of months in those years. We then round the resulting

average amount down to the next lower dollar amount. The result is the AIME.

*Computing the PIA*

The PIA is the sum of three separate percentages of portions of the AIME. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount above $1,085. We call the dollar amounts in the formula governing the portions of the AIME the bend points of the formula. Therefore, the bend points for 1979 were $180 and $1,085.

To obtain the bend points for 2023, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2021 to that average for 1977. We then round these results to the nearest dollar. Multiplying the 1979 amounts of $180 and $1,085 by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1977 ($9,779.44) produces the amounts of $1,114.94 and $6,720.63. We round these to $1,115 and $6,721. Therefore, the portions of the AIME to be used in 2023 are the first $1,115, the amount between $1,115 and $6,721, and the amount above $6,721.

Therefore, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 2023, or who die in 2023 before becoming eligible for benefits, their PIA will be the sum of:

(a) 90 percent of the first $1,115 of their AIME, plus

(b) 32 percent of their AIME between $1,115 and $6,721, plus

(c) 15 percent of their AIME above $6,721.

We round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment are stated in section 215(a) of the Act.

**Maximum Benefits Payable to a Family**

*General*

The 1977 amendments continued the policy of limiting the total monthly benefits that a worker's family may receive based on the worker's PIA. Those amendments also continued the relationship between maximum family benefits and PIAs but changed the method of computing the maximum benefits that may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a formula for computing the maximum benefits payable to the family of a worker with a determined disability. This formula applies to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. For workers with determined disabilities who are initially entitled to disability benefits before July 1980 or whose disability began before 1979, we compute the family maximum payable the same as the old-age and survivor family maximum.

*Computing the Old-Age and Survivor Family Maximum*

The formula used to compute the family maximum is similar to that used to compute the PIA. It involves computing the sum of four separate percentages of portions of the worker's PIA. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount above $433. We refer to such dollar amounts in the formula as the bend points of the family-maximum formula.

To obtain the bend points for 2023, we multiply each of the 1979 bend-point amounts by the ratio of the national average wage index for 2021 to that average for 1977. Then we round this amount to the nearest dollar. Multiplying the amounts of $230, $332, and $433 by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1977 ($9,779.44) produces the amounts of $1,424.65, $2,056.45, and $2,682.06. We round these amounts to $1,425, $2,056, and $2,682. Therefore, the portions of the PIAs to be used in 2023 are the first $1,425, the amount between $1,425 and $2,056, the amount between $2,056 and $2,682, and the amount above $2,682.

So, for the family of a worker who becomes age 62 or dies in 2023 before age 62, we compute the total benefits payable to them so that it does not exceed:

(a) 150 percent of the first $1,425 of the worker's PIA, plus

(b) 272 percent of the worker's PIA between $1,425 and $2,056, plus

(c) 134 percent of the worker's PIA between $2,056 and $2,682, plus

(d) 175 percent of the worker's PIA above $2,682.

We then round this amount to the next lower multiple of $0.10 if it is not already a multiple of $0.10. This formula and the rounding adjustment are stated in section 203(a) of the Act.

**Quarter of Coverage Amount**

*General*

The earnings required for a quarter of coverage in 2023 is $1,640. A quarter of coverage is the basic unit for determining if a worker is insured under the Social Security program. For years before 1978, we generally credited an individual with (1) a quarter of coverage for each quarter in which they were paid wages of $50 or more or (2) four quarters of coverage for every tax year in which they earned $400 or more of self-employment income. Beginning in 1978, employers generally report wages annually instead of quarterly. With the change to yearly reporting, section 352(b) of the Social Security Amendments of 1977 amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 up to a maximum of four quarters of coverage for the year. The amendment also provided a formula for years after 1978.

*Computation*

Under the prescribed formula, the quarter of coverage amount for 2023 is the larger of: (1) the 1978 amount of $250 multiplied by the ratio of the national average wage index for 2021 to that for 1976; or (2) the current amount of $1,510. Section 213(d) provides that if the resulting amount is not a multiple of $10, we round it to the nearest multiple of $10.

*Quarter of Coverage Amount*

Multiplying the 1978 quarter of coverage amount ($250) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1976 ($9,226.48) produces $1,641.34. We then round this amount to $1,640. Because $1,640 exceeds the current amount of $1,510, the quarter of coverage amount is $1,640 for 2023.

**Old-Law Contribution and Benefit Base**

*General*

The old-law contribution and benefit base for 2023 is $118,800. This base would have been effective under the Act without the enactment of the 1977 amendments.

The old-law contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments that correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (section 230(d) of the Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to compute benefits for people who are also eligible and receiving pensions based on employment not covered under section 210 of the Act. We credit a year of coverage, for this purpose only, for each year in which earnings equal or exceed 25 percent of the old-law base.

*Computation*

The old-law contribution and benefit base is the larger of: (1) the 1994 old-law base ($45,000) multiplied by the ratio of the national average wage index for 2021 to that for 1992; or (2) the current old-law base ($109,200). If the resulting amount is not a multiple of $300, we round it to the nearest multiple of $300.

*Old-Law Contribution and Benefit Base Amount*

Multiplying the 1994 old-law contribution and benefit base ($45,000) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1992 ($22,935.42) produces $118,850.15. We round this amount to $118,800. Because $118,800 exceeds the current amount of $109,200, the old-law contribution and benefit base is $118,800 for 2023.

**Substantial Gainful Activity Amounts**

*General*

A finding of disability under titles II and XVI of the Act requires that a person, except for a title XVI child with a determined disability, be unable to engage in SGA. A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly earnings considered as SGA depends on the nature of a person's disability. Section 223(d)(4)(A) of the Act specifies the SGA amount for statutorily blind individuals under title II while our regulations (20 CFR 404.1574 and 416.974) specify the SGA amount for non-blind individuals with a determined disability.

*Computation*

The monthly SGA amount for statutorily blind individuals under title II for 2023 is the larger of: (1) the amount for 1994 multiplied by the ratio of the national average wage index for 2021 to that for 1992; or (2) the amount for 2022. The monthly SGA amount for non-blind individuals with a determined disability for 2023 is the larger of: (1) the amount for 2000 multiplied by the ratio of the national average wage index for 2021 to that for 1998; or (2) the amount for 2022. In either case, if the resulting amount is not a multiple of $10, we round it to the nearest multiple of $10.

*SGA Amount for Statutorily Blind Individuals*

Multiplying the 1994 monthly SGA amount for statutorily blind individuals ($930) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1992 ($22,935.42) produces $2,456.24. We then round this amount to $2,460. Because $2,460 exceeds the current amount of $2,260, the monthly SGA amount for statutorily blind individuals is $2,460 for 2023.

*SGA Amount for Non-Blind Individuals Who Have a Determined Disability*

Multiplying the 2000 monthly SGA amount for non-blind individuals with a determined disability ($700) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1998 ($28,861.44) produces $1,469.18. We then round this amount to $1,470. Because $1,470 exceeds the current amount of $1,350, the monthly SGA amount for non-blind individuals with a determined disability is $1,470 for 2023.

**Trial Work Period Earnings Threshold**

*General*

During a trial work period of 9 months in a rolling 60-month period, a beneficiary receiving Social Security disability benefits may test their ability to work and still receive monthly benefit payments. To be considered a trial work period month, earnings must be over a certain level. In 2023, any month in which earnings exceed $1,050 is considered a month of services for an individual's trial work period.

*Computation*

The method used to determine the new amount is set forth in our regulations at 20 CFR 404.1592(b). Monthly earnings in 2023, used to determine whether a month is part of a trial work period, is the larger of: (1) the amount for 2001 ($530) multiplied by the ratio of the national average wage index for 2021 to that for 1999; or (2) the amount for 2022. If the resulting amount is not a multiple of $10, we round it to the nearest multiple of $10.

*Trial Work Period Earnings Threshold Amount*

Multiplying the 2001 monthly earnings threshold ($530) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1999 ($30,469.84) produces $1,053.66. We then round this amount to $1,050. Because $1,050 exceeds the current amount of $970, the monthly earnings threshold is $1,050 for 2023.

**Domestic Employee Coverage Threshold**

*General*

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2023, this threshold is $2,600. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

*Computation*

Under the formula, the domestic employee coverage threshold for 2023 is equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 2021 to that for 1993. If the resulting amount is not a multiple of $100, we round it to the next lower multiple of $100.

*Domestic Employee Coverage Threshold Amount*

Multiplying the 1995 domestic employee coverage threshold ($1,000) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1993 ($23,132.67) produces $2,618.59. We then round this amount to $2,600. Therefore, the domestic employee coverage threshold amount is $2,600 for 2023.

**Election Official and Election Worker Coverage Threshold**

*General*

The minimum amount an election official and election worker must earn so the earnings are covered under Social Security or Medicare is the election official and election worker coverage threshold. For 2023, this threshold is $2,200. Section 218(c)(8)(B) of the Act provides the formula for increasing the threshold.

*Computation*

Under the formula, the election official and election worker coverage threshold for 2023 is equal to the 1999 amount of $1,000 multiplied by the ratio of the national average wage index for 2021 to that for 1997. If the amount we determine is not a multiple of $100, we round it to the nearest multiple of $100.

*Election Official and Election Worker Coverage Threshold Amount*

Multiplying the 1999 coverage threshold amount ($1,000) by the ratio of the national average wage index for 2021 ($60,575.07) to that for 1997 ($27,426.00) produces $2,208.67. We then round this amount to $2,200. Therefore, the election official and election worker coverage threshold amount is $2,200 for 2023.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income)

The Acting Commissioner of the Social Security Administration, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to William P. Gibson, who is a Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

**William P. Gibson,**

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

[FR Doc. 2022–23073 Filed 10–21–22; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice: 11895]**

### Notification of the Meetings of the United States-Panama Environmental Affairs Council and Environmental Cooperation Commission

**ACTION:** Notice of meetings and request for comments; invitation to public session.

**SUMMARY:** The Department of State and the Office of the United States Trade Representative (USTR) are providing notice that the United States and Panama plan to hold meetings of the United States-Panama Environmental Affairs Council (the ''Council'') and Environmental Cooperation Commission (the ''Commission'') on December 5, 2022, in Panama City, Panama. The purpose of the meetings of these two bodies, respectively, is to review implementation of the Environment Chapter (Chapter 17) of the United States-Panama Trade Promotion Agreement (TPA) and the United States-Panama Environmental Cooperation Agreement (ECA). The Department of State and USTR also invite written comments or questions to be submitted no later than November 25, 2022, regarding implementation of Chapter 17 and the ECA, and any topics that should be discussed at the Council and Commission meetings consistent with their respective purposes. When preparing comments, submitters are encouraged to refer to Chapter 17 of the TPA and/or the ECA, as relevant (available at *https://www.state.gov/key-topics-office-of-environmental-quality-and-transboundary-issues/current-trade-agreements-with-environmental-chapters/#panama* and *https://ustr.gov/trade-agreements/free-trade-agreements/panama-tpa/final-text*). Instructions on how to submit comments are under the heading **ADDRESSES**.

**DATES:** The public sessions of the Council and Commission will be held on December 5, 2022, from 5 to 6:30 p.m. EST in Panama City, Panama, with an option to join virtually. Please contact Anel Gonzalez-Ruiz and Sigrid Simpson for the location of this meeting in Panama City, Panama, or to request a link to join virtually. Confirmations of attendance and comments or suggestions are requested in writing no later than November 25, 2022.

**ADDRESSES:** Written comments or suggestions should be submitted to both:

(1) Anel Gonzalez-Ruiz, U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environmental Quality, by email to *Gonzalez-RuizA@state.gov* with the subject line ''United States-Panama TPA EAC/ECC Meetings''; and

(2) Sigrid Simpson, Director for Environment and Natural Resources, Office of the United States Trade Representative, by email to *Sigrid.A.Simpson@ustr.eop.gov* with the subject line ''United States-Panama TPA EAC/ECC Meetings''.

In your email, please include your full name and organization. If you have access to the internet, you can view and comment on this notice by going to: *https://www.regulations.gov/#!home* and searching for docket number DOS–2022–0039.

**FOR FURTHER INFORMATION CONTACT:** Anel Gonzalez-Ruiz, (202) 705–5282, or Sigrid Simpson, (202) 881–6592.

**SUPPLEMENTARY INFORMATION:** Article 17.6 of the TPA establishes an Environmental Affairs Council and provides that, unless the Parties otherwise agree, the Council shall meet annually to oversee the implementation of, and review progress under, Chapter 17, and to consider the status of cooperation activities developed under the ECA. Article 17.6 further requires that, unless the Parties otherwise agree, each meeting of the Council include a session in which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of Chapter 17.

Article III of the ECA establishes an Environmental Cooperation Commission responsible for, among other things, establishing, examining, and evaluating cooperative activities under the ECA. The ECC shall meet once a year, unless otherwise decided.

On December 5, 2022, the Council will meet in a closed government-to-government session to (1) review implementation of Chapter 17; (2) receive a report from the United States-Panama Secretariat for Environmental Enforcement Matters on the status of public submissions; and (3) review activities under the United States-Panama 2018–2022 Environmental Cooperation Work Program and possible cooperation for the future under the ECA.

The Council and Commission invites all interested persons to attend a public session on Chapter 17 implementation and environmental cooperation under the ECA, beginning at 5 p.m. EST on December 5, 2022. At the session, the Council will welcome questions, input, and information about challenges and achievements in implementation of Chapter 17 and the ECA. If you would like to attend the public session either in-person, in Panama City, Panama, or virtually, please notify Anel Gonzalez-Ruiz and Sigrid Simpson at the email addresses listed under the heading **ADDRESSES**.

Visit the Department of State website at *www.state.gov* and the USTR website at *www.ustr.gov* for more information.

**Sherry Zalika Sykes,**

*Director, Office of Environmental Quality, U.S. Department of State.*

[FR Doc. 2022–23031 Filed 10–21–22; 8:45 am]

**BILLING CODE 4710–09–P**

## DEPARTMENT OF STATE

**[Public Notice 11888]**

### 30-Day Notice of Proposed Information Collection: Petition To Classify Special Immigrant Under INA 203(b)(4) as an Employee or Former Employee of the U.S. Government Abroad, or the Surviving Spouse or Child of an Employee of the U.S. Government Abroad

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

**DATES:** Submit comments up to November 23, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Tonya Whigham who may be reached at *PRA_BurdenComments@state.gov* or at 202–485–7586.

**SUPPLEMENTARY INFORMATION:**

- *Title of Information Collection:* Petition to Classify Special Immigrant Under INA 203(b)(4) as an Employee or Former Employee of the U.S. Government Abroad, or the Surviving Spouse or Child of an Employee of the U.S. Government Abroad.
- *OMB Control Number:* 1405–0082.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* CA/VO.
- *Form Number:* DS–1884.
- *Respondents:* Aliens petitioning for immigrant visas under INA 203(b)(4) as a special immigrant described in INA section 101(a)(27)(D).
- *Estimated Number of Respondents:* 600.
- *Estimated Number of Responses:* 600.
- *Average Time per Response:* 10 minutes.
- *Total Estimated Burden Time:* 100 hours.
- *Frequency:* Once per petition.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

**Abstract of Proposed Collection**

DS–1884 solicits information from applicants claiming employment-based immigrant visa preference under section 203(b)(4) of the Immigration and Nationality Act based on qualification as a special immigrant described in section 101(a)(27)(D) of the Immigration and Nationality Act. An applicant may file the DS–1884 petition within one year of notification by the Department of State that the Secretary has approved a recommendation for special immigrant status. DS–1884 solicits information that will assist the consular officer in ensuring that the applicant is statutorily qualified to receive such status, including meeting the years of service and exceptional service requirements.

Additionally, The Emergency Security Supplemental Appropriations Act (ESSAA), signed into law on July 30, 2021, amends section 101(a)(27)(D) of the Immigration and Nationality Act (INA) to extend eligibility for special immigrant status to the surviving spouse and children of an employee of the United States government abroad, provided the employee performed faithful service for not less than 15 years or was killed in the line of duty regardless of years of service. These provisions are effective as of June 30, 2021 and apply retroactively. Pursuant to INA section 204(a)(1)(G)(ii), applicants seeking classification under INA 203(b)(4) to obtain special immigrant status under INA section 101(a)(27)(D) must file a petition with the Secretary of State by submitting Form DS–1884. Form DS–1884 was amended under emergency authority on April 26, 2022, to accommodate this new category of applicants. The Department is proposing to make these emergency amendments permanent as part of this renewal.

**Methodology**

The applicant can obtain a paper copy of the petition from consular posts abroad. The applicant can obtain an electronic copy through the Department's website, *travel.state.gov.* The petition available on the Department's website allows an applicant to complete the petition electronically and then submit the completed form to post.

**Julie M. Stufft,**

*Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.*

[FR Doc. 2022–23070 Filed 10–21–22; 8:45 am]

**BILLING CODE 4710–06–P**

## SURFACE TRANSPORTATION BOARD

**[Docket No. AB 603 (Sub–No. 5X)]**

### V and S Railway, LLC—Abandonment Exemption—in Franklin County, Mo.

V and S Railway, LLC (V&S) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 9.71-mile segment of rail line in Franklin County, Mo., between approximately milepost 61.89 at Union and milepost 71.6 at Beaufort (the Line). The Line traverses U.S. Postal Service Zip Codes 63013 and 63084.

V&S has certified that: (1) no local traffic has moved over the Line for at least two years;[1] (2) because the Line is not a through line, there is no overhead traffic on the Line that would need to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

[1] V&S states that it never provided service over the Line. V&S further states that it acquired the Line subject to a lease with Central Midland Railway Company (CMRC), and that in March 2022, CMRC received an exemption to discontinue its operations over the Line. *Cent. Midland Ry.—Discontinuance of Serv. Exemption—in Franklin Cnty., Mo.,* AB 1070 (Sub–No. 4X) (STB served Mar. 18, 2022). V&S notes that in CMRC's discontinuance filing, CMRC certified that no local service has moved over the Line in over two years.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[2] this exemption will be effective on November 23, 2022,[3] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[4] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 3, 2022.[5] Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by November 14, 2022.

All pleadings, referring to Docket No. AB 603 (Sub–No. 5X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on V&S's representative, Eric M. Hocky, Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void ab initio.

V&S has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by October 28, 2022. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), V&S shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by V&S's filing a notice of consummation by October 24, 2023, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: October 19, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

**Regena Smith-Bernard,**

*Clearance Clerk.*

[FR Doc. 2022–23069 Filed 10–21–22; 8:45 am]

**BILLING CODE 4915–01–P**

[2] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] V&S states that it intends to consummate the abandonment of the Line on or after November 17, 2022. V&S may not abandon the Line before the exemption becomes effective.

[4] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[5] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36397]**

### Wisconsin Central, Ltd.—Petition for Declaratory Order—Interchange With Soo Line Railroad Company

This proceeding derives from an April 14, 2020 petition for declaratory order filed by Wisconsin Central, Ltd. (CN), regarding the interchange of traffic from Soo Line Railroad Company (CP) to CN in the Chicago, Ill., area. On October 30, 2020, the Board served a decision denying the relief sought by the petition. CN appealed the Board's decision to the United States Court of Appeals for the Seventh Circuit, which vacated the Board's decision and remanded the matter to the Board.

On February 2, 2022, CN filed a post-remand brief. CP moved to strike CN's post-remand brief on February 14, 2022, and later filed a separate reply to it. Thereafter, CN filed a reply to CP's reply, which CP then asked the Board to reject.

For the reasons explained below, the Board will deny CP's motion to strike CN's post-remand brief and CP's request to reject CN's reply to reply. The Board also will solicit comments from stakeholders and other interested persons on the issues presented in this proceeding.

#### Background

From 2010 to 2019, CP and CN mainly interchanged Chicago-area traffic at Spaulding,[1] near Bartlett, Ill. *Soo Line R.R.—Pet. for Declaratory Ord. & Prelim. Inj.—Interchange with Canadian Nat'l,* FD 36299, slip op. at 1–2 (STB served Nov. 29, 2019). However, in 2019 CN sought to move the Spaulding interchange traffic elsewhere. *Id.* at 1–2. CN first designated Kirk Yard in Gary, Ind., but CP objected and sought relief from the Board, requesting that the Board order CN to continue to receive CP cars at Spaulding unless a replacement location was agreed upon or the Board prescribed a replacement location. *Id.* at 2. Pending the Board's decision regarding Kirk Yard in Docket No. 36299, the parties signed an interim agreement in August 2019 in which they agreed to move the Spaulding interchange traffic to Clearing Yard (Clearing), owned by the Belt Railway of Chicago (BRC).[2] *Id. at 2–3.* Subsequently, the Board concluded that CN could not designate Kirk Yard for interchange with CP because it was not a reasonable interchange location, while also declining to address the reasonableness of interchange at Clearing. *Id.* at 3–4, 7.

On April 14, 2020, CN filed a petition for a declaratory order seeking a ruling under 49 U.S.C. 10742, which states:

> A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier or of a water carrier providing transportation subject to chapter 137.

CN asked the Board to declare that: (1) CN may designate Clearing to receive interchange traffic from CP; and (2) each railroad must bear its own costs for those interchanges, including payment by the delivering carrier of BRC's switching fees. (Pet. 1, 3–4.) By decision served on October 30, 2020, the Board held that CN could not unilaterally designate Clearing as the interchange point and it therefore was not necessary to reach the issue of whether CN and CP must bear their own costs. *Wis. Cent. Ltd.—Pet. for Declaratory Ord.—Interchange with Soo Line R.R.,* FD 36397, slip op. at 4 (STB served Oct. 30, 2020). The Board found that, pursuant to precedent, when two carriers physically intersect, the receiving carrier is required to designate a point on its own line where it will receive traffic and to provide a free route over its tracks to that point but that when the

[1] CN states that during that time, some traffic, especially toxic-by-inhalation hazardous materials, was moved by the parties to Clearing Yard, owned by the Belt Railway of Chicago, for interchange. (CN Post-Remand Brief 1, 4.)

[2] CN, CP, and four other Class I railroads are co-owners of BRC. *Wis. Cent. Ltd.,* FD 36397, slip op. at 1 n.2.

carriers do not physically intersect, the receiving carrier has neither the right nor the obligation to designate an interchange point. *Id.* at 5. Accordingly, the Board held that if CP's and CN's lines physically intersected, CN was required to designate an interchange point on its own line and provide a free route for CP to travel to that point, but if the lines did not physically intersect, section 10742 would not apply and the case would be moot. *Id.* at 6–7, 9. In doing so, the Board rejected CN's argument that the language of section 10742 permitted CN to designate Clearing as the interchange based on CN's status as co-owner of BRC, which does intersect with CP at Clearing. *Id.* at 7. The Board reasoned that CN and BRC were distinct entities and, by designating a third party's rail line as the interchange point and forcing CP to pay a switching fee, CN would not be ''providing'' interchange facilities that are within its ''power to provide'' as required by section 10742. *Id.* at 7–8, 10.

The United States Court of Appeals for the Seventh Circuit vacated the Board's October 30, 2020 decision and remanded the matter to the Board. *Wis. Cent. Ltd.* v. *STB,* 20 F.4th 292 (7th Cir. 2021). The court held that the Board erred in interpreting section 10742 by: (1) concluding that carriers only have the ''power to provide'' facilities that they own; (2) finding that section 10742 only applies if two carriers physically intersect, (3) conflating an assumption about who pays the fees of a third-party carrier with the question of ''whether a receiving carrier [can] ever designate a willing third party to receive traffic on its behalf''; and (4) relying on a ''common-law norm'' that a delivering railroad cannot compel a receiving railroad to exercise a voluntary contractual right to receive traffic on the line of a third party carrier. *Id.* at 294–95. The court also indicated that the word ''reasonable'' in section 10742 gives the Board interpretive leeway that the statutory phrase ''that are within its power to provide'' does not. *Id.* at 295.

CN filed a post-remand brief on February 2, 2022, arguing that the sole remaining issue in the case is whether CP should be required to pay BRC's switching fees for interchange traffic that CP will deliver to Clearing Yard. (CN Post-Remand Brief 1.) CN asserts the answer is yes, both under the BRC operating agreement and because requiring CP to pay would be fair and consistent with industry practice. (*Id.*) On February 14, 2022, CP filed a motion to strike CN's post-remand brief. CP argues that the Board has not directed the parties to file post-remand briefs, and it is for the Board, not CN, to decide what procedures to follow on remand. (CP Mot. to Strike 1–2.) CP further argues that CN's post-remand brief improperly asserts that the sole remaining issue on remand is whether CP must pay the BRC switching fees for CN-bound traffic that CP delivers to Clearing. (*Id.* at 2.) CP claims that the court did not consider or address whether CN's proffer of Clearing Yard satisfied its statutory obligation under section 10742 to ''provide reasonable, proper, and equal facilities that are within its power to provide.'' (*Id.* at 3.) CP also asserts that the court did not reach the question of whether CN may require CP to exercise its permissive trackage rights to deliver its traffic to CN at Clearing Yard. (*Id.*) CP requests that the Board strike CN's post-remand brief from the record, set a procedural schedule for initial briefs and reply briefs, and identify what issues should be addressed in the briefs. (*Id.* at 4.) On March 21, 2022, CP filed a reply to CN's post-remand brief. On April 20, 2022, CN filed a reply to CP's reply and a motion for leave to file a reply to a reply. On April 25, 2022, the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra (Metra) filed comments and a motion for leave to file comments out of time. On May 10, 2022, CP filed a reply to CN's April 20, 2022 reply requesting that the Board reject CN's reply because the Board has not authorized additional post-remand briefing and because CN's submission was filed nearly a month after CP's reply. (CP Reply 1, May 10, 2022.)

**Discussion and Conclusions**

The Board does not have specific regulations or procedures for cases following a judicial remand. While parties often do not file post-remand briefs without a directive from the Board or a petition for leave to file a brief, the Board will accept CN's post-remand brief and its April 20, 2022 reply brief because striking them would not serve a useful purpose. CP cites to *Western Fuels Association* v. *BNSF Railway,* NOR 42088 (STB served Feb. 1, 2011), for the proposition that unilaterally filing comments in a remand proceeding has been deemed inappropriate by the Board. (CP Mot. to Strike 1–2.) In that case, however, the Board did not state that the filing was inappropriate, and it accepted the comments into the record. *W. Fuels Ass'n,* NOR 42088, slip op. at 2–3. CP also argues that CN's filing improperly arrogated the Board's authority to decide what action and procedures should be followed on remand. (CP Mot. to Strike 2.) However, the Board is now exercising its authority to set procedures in this remand proceeding, and the acceptance of CN's briefs will not interfere with those procedures or prejudice any party. In addition, to develop a more complete record, the Board invites CN, CP and any other rail carriers and other interested parties to file comments, as outlined below.

Given the Seventh Circuit's discussion of the Board's reliance on agency precedent and industry practice as summarized above, a post-remand decision resolving the dispute between CN and CP has the potential to significantly alter such precedent and practices regarding the interchange of rail traffic. Because the resulting interpretation of section 10742 by the Board could have wide-reaching consequences for the rail industry, the Board is soliciting input from stakeholders and other interested persons. Input from a wider variety of industry participants will give the Board a better sense of the potential impacts of different approaches and enable it to make a more informed decision.

Accordingly, the Board invites interested parties to comment on the broader legal issues presented by this declaratory order proceeding. Specifically, commenters are invited to address any or all of the following issues:

1. How a carrier's obligations under 49 U.S.C. 10742 to ''provide reasonable, proper, and equal facilities that are within its power to provide'' should be understood in light of the decision by the United States Court of Appeals for the Seventh Circuit, as well as the impact of that decision on existing ICC and Board precedent and current carrier practices.

2. Whether the Board can consider the costs to each railroad of using a particular interchange location designated by one carrier when determining whether interchange facilities are ''reasonable'' under section 10742 and, if so, whether the Board can allocate such costs between delivering and receiving railroads when resolving section 10742 disputes. If commenters believe that the Board may consider costs as part of a reasonableness determination under section 10742, commenters should address how the Board should consider costs and/or the allocation of costs in making such a determination.

3. Whether the Board has authority under any other statutory provision(s) to resolve a dispute regarding the costs associated with an interchange location and how the Board should apply any such statutory authority.

4. How the statutory term ''reasonable'' should be interpreted.

5. How the interests of delivering and receiving carriers should be balanced in the selection of an interchange location, particularly where the existing interchange location is well established or long-standing.

6. How a carrier's ''power to provide'' facilities relates to the other carrier's ability or rights to reach those facilities.

7. Generally what procedures and factors should apply when railroads cannot agree on an interchange location or one carrier unilaterally seeks to move an existing interchange location.[3]

8. Whether and how any changes a party recommends regarding the Board's interpretation of section 10742 should affect the Board's interpretation of other statutory provisions and related precedent (*e.g.,* 49 U.S.C. 10705(a)(2) and related precedent).

The Board recognizes that CN and CP have an interest in resolving their dispute in a timely manner. However, in light of the court's decision, because resolution of their dispute could potentially have a significant impact on the rail industry at large and because the industry will likely have insight regarding how any particular standard for designating interchange locations will impact rail operations, the Board believes that the delay necessary to obtain input from other stakeholders is warranted. Following the receipt of comments, the Board intends to work expeditiously to issue a decision. As always, the Board encourages the parties to settle their dispute privately without further Board action if possible.

Comments must be filed by December 19, 2022 and reply comments must be filed by January 17, 2023. To provide interested parties with notice of the opportunity to submit comments in this proceeding, this decision will be published in the **Federal Register**.

*It is ordered:*

1. CP's motion to strike CN's post-remand brief and request to reject CN's April 20, 2022 reply are denied.

2. CN's motion for leave to file a reply to a reply is granted.

3. Metra's motion for leave to file comments out of time is granted.

4. Interested parties may submit comments by December 19, 2022. Replies to those comments are due by January 17, 2023.

5. This decision will be published in the **Federal Register**.

6. This decision is effective on its service date.

Decided: October 18, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

**Aretha Laws-Byrum,**

*Clearance Clerk.*

[FR Doc. 2022–23021 Filed 10–21–22; 8:45 am]

**BILLING CODE 4915–01–P**

[3] As discussed above, CN, CP, and Metra have each already filed briefs or comments following the remand. In the interest of compiling a complete record, all post-remand briefs and comments filed to date will be accepted. In addition, parties that have already filed post-remand briefs or comments may also file initial comments and reply comments as requested by this decision. All comments should be limited to the broader legal issues discussed above and should not address the specific facts of this case; following the comments and replies permitted in this decision, CP and CN will be afforded an opportunity to further brief the application of the issues discussed to the facts of this case.

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### U.S. Maritime Transportation System National Advisory Committee; Notice of Public Meeting

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Maritime Administration (MARAD) announces a public meeting of the U.S. Maritime Transportation System National Advisory Committee (MTSNAC) to develop and discuss advice and recommendations for the U.S. Department of Transportation on issues related to the marine transportation system.

**DATES:** The meeting will be held on Tuesday, November 29, 2022, from 9:00 a.m. to 4:30 p.m. and Wednesday, November 30, 2022, from 9:00 a.m. to 4:30 p.m. Eastern Daylight Time (EDT).

Requests to attend the meeting must be received no later than 5:00 p.m. EDT on the prior week Monday, November 21, 2022, in order to facilitate entry. Requests for accommodations to a disability must be received by the day prior to the meeting Monday, November 28, 2022. Those requesting to speak during the public comment period of the meeting must submit a written copy of their remarks to DOT by no later than by the prior week Monday, November 21, 2022. Requests to submit written materials to be reviewed during the meeting must also be received by the prior week Monday, November 21, 2022.

**ADDRESSES:** The meeting will be held at the DOT Conference Center located at 1200 New Jersey Ave. SE, Washington, DC 20590. Any Committee related request should be sent to the person listed in the following section.

**FOR FURTHER INFORMATION CONTACT:** Chad Dorsey, Designated Federal Officer, at *MTSNAC@dot.gov* or at (202) 997–6205. Maritime Transportation System National Advisory Committee, 1200 New Jersey Avenue SE, W21–307, Washington, DC 20590. Please visit the MTSNAC website at *https://www.maritime.dot.gov/outreach/maritime-transportation-system-mts/maritime-transportation-system-national-advisory-0*.

**SUPPLEMENTARY INFORMATION:**

#### Background

The MTSNAC is a Federal advisory committee that advises the U.S. Secretary of Transportation through the Maritime Administrator on issues related to the maritime transportation system. The MTSNAC was established in 1999 and mandated in 2007 by the Energy Independence and Security Act of 2007 (Pub. L. 110–140). The MTSNAC is codified at 46 U.S.C. 50402 and operates in accordance with the provisions of the Federal Advisory Committee Act.

#### Agenda

The agenda will include: (1) welcome, opening remarks, and introductions; (2) administrative items; (3) subcommittee break-out sessions; (4) updates to the Committee on the subcommittee work; (5) public comments; and (6) discussions relevant to formulate recommendations for to the Secretary. A final agenda will be posted on the MTSNAC internet website at *https://www.maritime.dot.gov/outreach/maritime-transportation-system-mts/maritime-transportation-system-national-advisory-0* at least one week in advance of the meeting.

#### Public Participation

The meeting will be open to the public. Members of the public who wish to attend in person must RSVP to the person listed in the **FOR FURTHER INFORMATION CONTACT** section with your name and affiliation. Seating will be limited and available on a first-come-first-serve basis.

*Services for individuals with disabilities:* The public meeting is physically accessible to people with disabilities. The U.S. Department of Transportation is committed to providing all participants equal access to this meeting. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*Public comments:* A public comment period will commence at approximately 11:45 a.m. EST on November 29, 2022, and again on November 30, 2022, at the same time. To provide time for as many people to speak as possible, speaking time for each individual will be limited to three minutes. Members of the public who would like to speak are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Commenters will be placed on the agenda in the order in which notifications are received. If time allows, additional comments will be permitted. Copies of oral comments must be submitted in writing at the meeting or preferably emailed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Additional written comments are welcome and must be filed as indicated below.

*Written comments:* Persons who wish to submit written comments for consideration by the Committee must send them to the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

(Authority: 49 CFR part 1.93(a); 5 U.S.C. 552b; 41 CFR parts 102–3; 5 U.S.C. app. Sections 1–16)

By Order of the Maritime Administrator:

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022–22996 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2020–0066; Notice 2]**

### Volkswagen Group of America, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of petition.

**SUMMARY:** Volkswagen Group of America, Inc., (''Volkswagen'') has determined that certain model year (MY) 2019–2020 Volkswagen and Audi motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems.* Volkswagen filed a noncompliance report dated May 6, 2020, and later amended it on May 15, 2020. Volkswagen subsequently petitioned NHTSA on May 20, 2020, and later amended the petition on June 8, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces and explains the denial of Volkswagen's petition.

**FOR FURTHER INFORMATION CONTACT:** Ahmad Barnes, Office of Vehicle Safety Compliance, NHTSA, (202) 366–7236.

**SUPPLEMENTARY INFORMATION:**

#### I. Overview

Volkswagen has determined that certain MY 2019–2020 Volkswagen and Audi motor vehicles do not fully comply with the requirements of paragraph S6(f)(3) of FMVSS No. 138, *Tire Pressure Monitoring Systems* (49 CFR 571.138). Volkswagen filed a noncompliance report dated May 6, 2020, and later amended it on May 15, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Volkswagen subsequently petitioned NHTSA on May 20, 2020,[1] for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of Volkswagen's petition was published with a 30-day public comment period on July 10, 2020, in the **Federal Register** (85 FR 41670). One comment was received. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*, and then follow the online search instructions to locate docket number ''NHTSA–2020–0066''

#### II. Vehicles Involved

Approximately 299,043 of the following MY 2019–2020 Volkswagen and Audi motor vehicles manufactured between November 26, 2018, and February 19, 2020, are potentially involved:

- 2019–2020 Volkswagen Atlas
- 2020 Volkswagen Atlas Cross Sport
- 2019 Volkswagen Golf R
- 2019 Volkswagen Tiguan LWB
- 2019–2020 Volkswagen Jetta NF
- 2019–2020 Volkswagen Jetta GLI
- 2019 Volkswagen Golf Sportwagen A7
- 2019 Audi Q3
- 2019–2020 Volkswagen Golf GTI
- 2019 Volkswagen Golf Alltrack
- 2019–2020 Volkswagen Golf A7
- 2019–2020 Audi A3 Sedan
- 2019 Audi A3 Cabriolet

[1] Volkswagen amended this petition on June 8, 2020 to correct certain vehicle information to match its filing information.

#### III. Noncompliance

Volkswagen explains that the noncompliance is that the subject vehicles are equipped with tire pressure monitoring systems (TPMS) that do not fully comply with the requirements set forth in paragraph S6(f)(3) of FMVSS No. 138. Specifically, when there is a simultaneous pressure loss on all four tires, in which pressure loss occurs at the same rate and time, the detection may not occur within the 20-minute timeframe specified in test procedure requirements.

#### IV. Rule Requirements

Paragraphs S4.2(a), S4.3.1(c), and S6(f)(3) of FMVSS No. 138 include the requirements relevant to this petition. Paragraph S4.2(a) requires that the TPMS must illuminate a low tire pressure warning telltale not more than 20 minutes after the inflation pressure in one or more of the vehicle's tires, up to a total of four tires, is equal to or less than either the pressure 25 percent below the vehicle manufacturer's recommended cold inflation pressure, or the pressure specified in the 3rd column of Table 1 of FMVSS No. 138 for the corresponding type of tire, whichever is higher. Paragraph S4.3.1(c) requires that the TPMS is illuminated under the conditions specified in Paragraph S4.2. Paragraph S6(f)(3) requires that the sum of the total cumulative drive time under the test procedures described in paragraphs S6(f)(1) and (2) shall be the lesser of 20 minutes or the time at which the low tire pressure telltale illuminates.

#### V. Summary of Volkswagen's Petition

The following summarizes the views and arguments provided by Volkswagen in its petition. Therein, Volkswagen describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Volkswagen offers the following reasoning:

1. A rapid tire pressure loss on one or more tires is accurately detected and the low tire pressure warning telltale will illuminate and warn the driver.

2. A pressure loss on fewer than four tires at the same time and rate will be detected, and the low tire pressure warning telltale will illuminate and warn the driver.

3. A simultaneous pressure loss on all four tires at the same rate will be detected and indicated to the driver, but not in the required 20 minutes. Internal tests have shown that in those tests where the pressure loss was not detected in 20 minutes, a warning to the

driver was still shown in under 50 minutes. Volkswagen believes this behavior is not relevant for real world driving, as this particular diffusion scenario, involving all four tires at the same time and same rate, is very unlikely to happen in real world driving.

4. Volkswagen states that as of the production dates listed below for each respective vehicle, the condition has been corrected:

*Volkswagen*:

- 2019–2020 Volkswagen Golf vehicles, as of October 26, 2019;
- 2019 Volkswagen Golf Alltrack vehicles, as of October 26, 2019;
- 2019–2020 Volkswagen Golf GTI vehicles, as of October 26, 2019;
- 2019 Volkswagen Golf Sportwagen vehicles, as of August 28, 2019;
- 2019 Volkswagen Golf R vehicles, as of August 20, 2019;
- 2019–2020 Volkswagen Jetta vehicles, as of October 24, 2019;
- 2019–2020 Volkswagen Jetta GLI vehicles, as of October 24, 2019;
- 2019 Volkswagen Tiguan vehicles, as of August 18, 2019;
- 2019–2020 Volkswagen Atlas vehicles, as of February 20, 2020; and
- 2020 Volkswagen Atlas Cross Sport vehicles, as of July 25, 2019.

*Audi:*

- 2019–2020 Audi A3 vehicles, as of January 25, 2020;
- 2019 Audi A3 Cabriolet vehicles, as of July 13, 2019; and
- 2019 Audi Q3 vehicles, as of July 31, 2019.

5. The affected vehicles held at the factory have been corrected, and unsold units in dealer inventory will be corrected prior to sale.

6. Additionally, Volkswagen states that it is not aware of any field or customer complaints related to this condition, nor has it been made aware of any accidents or injuries that have occurred as a result of this issue.

Volkswagen concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and asking that it be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120.

## VI. Public Comment

NHTSA received one comment from the public. This comment was submitted anonymously by an individual who expressed their opinion that the subject noncompliance is inconsequential. However, the commenter did not provide any information specific to the subject noncompliance in support of this opinion. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the substance of Volkswagen's petition.

## VII. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement with no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[2]

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which the recall would otherwise protect.[3] In general, NHTSA does not consider the absence of complaints or injuries as evidence that the issue is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.[4]

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected also do not justify granting an inconsequentiality petition.[5] Similarly, mere assertions that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance are unpersuasive. The percentage of potential occupants that could be adversely affected by a noncompliance is not relevant to whether the noncompliance poses an inconsequential risk to safety. Rather, NHTSA focuses on the consequence to an occupant who is exposed to the consequence of that noncompliance.[6]

NHTSA has evaluated the merits of Volkswagen's petition for inconsequential noncompliance and has decided to deny the petition.

The intent of FMVSS No. 138 is to ensure that performance requirements for TPMS warn drivers of significant under-inflation of tires and the resulting safety problems.

Volkswagen explains that in certain instances where there is simultaneous pressure loss on all 4 tires, in which the pressure loss occurs at the same rate and time, the detection may not occur within the prescribed timeframe of the FMVSS No. 138 test procedure, but that a warning to the driver was still shown in under 50 minutes. Volkswagen believes this behavior is not relevant for real world driving, as this particular diffusion scenario, involving all four tires at the same time and same rate, is very unlikely to happen in real world driving.

The loss of tire air pressure in one, two, three, or all four tires is relevant and can occur under normal driving conditions. Under-inflation is one of the leading causes of tire failure. If tire pressure is too low, too much of the tire's surface area touches the road, which increases friction. Increased friction can cause the tires to overheat, which can lead to premature wear, tread separation, and blowouts. Even if the likelihood of all four tires deflating at the same rate at the same time is low, when they happen, blowouts can endanger the driver of the vehicle with the damaged tire as well as other drivers sharing the adjacent roadway. A blowout could cause the driver to lose control of their vehicle and crash. Depending on the severity of the blowout, other drivers might swerve to

---

[2] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[3] *See, e.g., Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[4] *See Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016); *see also United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

[5] *See Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance,* 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

[6] *See Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408, 29409 (June 1, 1999).

avoid pieces of flying debris from the blown tire and crash their vehicles. The TPMS detection requirements were established to reduce the possibility of any negative consequences due to underinflated tires. The Agency established the requirement that the driver be given a warning when tire pressure is 25 percent or more below the vehicle manufacturer's recommended cold tire inflation pressure. This low-tire pressure threshold, combined with the corresponding 20-minute limit to notify vehicle operators of this condition, was created to facilitate warning drivers of significant underinflation of tires to prevent resulting safety problems.

**VIII. NHTSA's Decision**

In consideration of the foregoing, NHTSA has decided that Volkswagen has not met its burden of persuasion that the subject FMVSS No. 138 noncompliance is inconsequential to motor vehicle safety. Accordingly, Volkswagen's petition is hereby denied, and Volkswagen is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Anne L. Collins,**

*Associate Administrator for Enforcement.*

[FR Doc. 2022–23020 Filed 10–21–22; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Bureau of the Fiscal Service

### Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the Fedwire Securities Service

**AGENCY:** Bureau of the Fiscal Service, Fiscal Service, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Department of the Treasury (Treasury) is announcing a new process to establish a fee schedule applicable to transfers of U.S. Treasury book-entry securities maintained on the Fedwire Securities Service (Fedwire) that will start on or after January 1, 2023.

**DATES:** Applicable January 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Janeene Matias, Bureau of the Fiscal Service, 304–480–6321.

**SUPPLEMENTARY INFORMATION:** Effective January 1, 2023, the Federal Reserve will be responsible for establishing the fee structure for the transfer of Treasury book-entry securities maintained on Fedwire, consistent with section 11A of the Federal Reserve Act and with Federal Reserve polices. This change, which applies to both the basic fee and off-line surcharge, will result in a consistent fee structure for transfers of Treasury and all other securities issued over Fedwire. Specific fee amounts will be set out in a separate **Federal Register** notice published by the Federal Reserve and will also be available on the Federal Reserve's *FRBservices.org* website.[1]

Treasury does not charge a fee for account maintenance, the stripping and reconstitution of Treasury securities, the wires associated with original issues, or interest and redemption payments. Treasury currently absorbs these costs and will continue to do so unless otherwise announced.

*Authority:* 31 CFR 357.45.

**Timothy E. Gribben,**

*Commissioner, Bureau of the Fiscal Service.*

[FR Doc. 2022–22995 Filed 10–21–22; 8:45 am]

**BILLING CODE 4810–AS–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See Supplementary Information section for effective date.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

**Notice of OFAC Actions**

On October 19, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

**Individuals**

1. VALENZUELA VALENZUELA, Juan Francisco, Mexico; DOB 03 Dec 1979; POB Sinaloa, Mexico; nationality Mexico; Gender Male; C.U.R.P. VAVJ791203HSLLLN08 (Mexico) (individual) [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of Executive Order 14059 of December 15, 2021, ''Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade'' (E.O. 14059), 86 FR 71549, for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. RIVAS CHAIRES, Raul, Mexico; DOB 08 Dec 1970; POB Sonora, Mexico; nationality Mexico; Gender Male; C.U.R.P. RICR701208HSRVHL06 (Mexico) (individual) [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

3. ARAUJO PERALTA, Hector Alfonso, Mexico; DOB 21 Apr 1968; POB Sinaloa, Mexico; nationality Mexico; Gender Male; C.U.R.P. AAPH680421HSLRRC05 (Mexico) (individual) [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

**Entities**

4. VALENZUELA DRUG TRAFFICKING ORGANIZATION, Mexico; Target Type Criminal Organization [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

5. ARFEL TRANSPORTADORA COOL LOGISTIC, S.A. DE C.V. (a.k.a. ''ARFEL

[1] For a current listing of the Federal Reserve System's fees, please refer to *https://www.frbservices.org/financial-services/securities/index.html.*

COOL LOGISTICS''), Guadalajara, Jalisco, Mexico; Organization Established Date 17 Nov 2015; Folio Mercantil No. 93093 (Mexico) [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

6. SERVICIOS DE TRANSPORTE MARUHA, SOCIEDAD ANONIMA DE CAPITAL VARIABLE (a.k.a. ''MARUHA REFRIGERADOS''), Culiacan, Sinaloa, Mexico; Organization Established Date 15 Mar 2012; Folio Mercantil No. 81512 (Mexico) [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

7. TRANSPORTES REFRIGERADOS PANDAS TRUCKING, SOCIEDAD ANONIMA DE CAPITAL VARIABLE (a.k.a. ''PANDAS FRIOS''), Culiacan, Sinaloa, Mexico; Organization Established Date 02 Mar 2012; Folio Mercantil No. 81513 (Mexico) [ILLICIT–DRUGS–EO14059]. Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Dated: October 19, 2022.

**Andrea M. Gacki,**

*Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

[FR Doc. 2022–23036 Filed 10–21–22; 8:45 am]

**BILLING CODE 4810–AL–P**

## UNIFIED CARRIER REGISTRATION PLAN

### Sunshine Act Meetings

**TIME AND DATE:** October 27, 2022, 12:00 p.m. to 3:00 p.m., Eastern time.

**PLACE:** This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (U.S. Toll) or 1–669–900–6833 (U.S. Toll) or (ii) 1–877–853–5247 (U.S. Toll Free) or 1–888–788–0099 (U.S. Toll Free), Meeting ID: 915 9367 7179, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJUofuquqTwrHd3ebFPcweg6eDMBswbWEwTJ.*

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

**Agenda**

**I. Welcome and Call to Order—UCR Board Chair**

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, confirm the presence of a quorum, and facilitate self-introductions.

**II. Verification of Publication of Meeting Notice—UCR Executive Director**

The UCR Executive Director will verify publication of the meeting notice on the UCR website and distribution to the UCR contact list via email, followed by subsequent publication of the notice in the **Federal Register**.

**III. Review and Approval of Board Agenda—UCR Board Chair**

*For Discussion and Possible Board Action*

The proposed Agenda will be reviewed, and the Board will consider adoption.

Ground Rules

➢ Board actions taken only in designated areas on agenda.

**IV. Approval of Minutes of the September 27, 2022, UCR Board Meeting—UCR Board Chair**

*For Discussion and Possible Board Action*

Draft Minutes from the September 27, 2022, UCR Board meeting will be reviewed. The Board will consider action to approve.

**V. Report of FMCSA—FMCSA Representative**

The Federal Motor Carrier Safety Administration (FMCSA) will provide a report on relevant activity.

**VI. Subcommittee Reports**

*Audit Subcommittee—UCR Audit Subcommittee Chair*

A. UCR Participation in FMCSA Out-of-Service Violations—UCR Audit Subcommittee Chair

*For Discussion and Possible Board Action*

The UCR Audit Subcommittee Chair will lead a discussion regarding a plan to work jointly with IRP and IFTA to add failure to register for any or all of these regulatory programs to the CVSA Out-of-Service criteria. This effort is based on data including the 2017 FMCSA Safety Analysis Report of Interstate Carriers with UCR, IRP and IFTA Violations and other data showing an enhanced risk of crash for these unregistered motor carriers. The UCR Board will discuss this issue and may authorize the UCR Audit Subcommittee and UCR Plan to work with both IRP and IFTA representatives to submit this request to CVSA for CVSA's review and approval.

B. Review of States' Audit Compliance Rates for Registration Years 2021 and 2022—UCR Audit Subcommittee Chair

The UCR Audit Subcommittee Chair will present registration performance statistics and the related compliance percentages, Focused Anomaly Reviews (FARs), unregistered brackets 5 and 6 motor carrier audits for the 2021 and 2022 registration years.

*Finance Subcommittee—UCR Finance Subcommittee Chair*

Removal of 2025 Fee Change Recommendation So That Current Fee Recommendation is for the 2024 Registration Year Only—UCR Finance Subcommittee Chair

*For Discussion and Possible Board Action*

The UCR Finance Subcommittee Chair will lead a discussion regarding a revision to the 2024 and 2025 UCR fee change recommendation to officially remove the 2025 fee recommendation from the current request that was approved by the UCR Board during the August 11, 2022 UCR Board meeting. There will be no change to the fee levels contained in the 2024 fee recommendation. Instead, the UCR Board may decide to submit a fee change recommendation for the 2025 Registration Year at the proposed July 27, 2023 UCR Board Meeting. The UCR Board may take action to approve the removal of the 2025 fee from the current fee recommendation.

*Education and Training Subcommittee—UCR Education and Training Subcommittee Chair*

Update on Current and Future Training Initiatives—UCR Education and Training Subcommittee Chair and UCR Staff Executive

The Education and Training Subcommittee Chair and the UCR Staff Executive will provide an update on current and planned future training initiatives and the E-Certificate program.

*Industry Advisory Subcommittee—UCR Industry Advisory Subcommittee Chair*

Update on Current Initiatives—UCR Industry Advisory Subcommittee Chair and UCR Staff Executive

The UCR Industry Advisory Subcommittee Chair and the UCR Staff Executive will provide an update on current and planned initiatives regarding motor carrier industry concerns.

**VII. Contractor Reports—UCR Executive Director**

- *UCR Executive Director's Report*

The UCR Executive Director will provide a report covering recent activity for the UCR Plan.

- *DSL Transportation Services, Inc.*

DSL Transportation Services, Inc. will report on the latest data from the Focused Anomaly Reviews (FARs) program, discuss motor carrier inspection results, pilot projects and other matters.

- *Seikosoft*

Seikosoft will provide an update on recent/new activity related to the National Registration System (NRS).

- *UCR Administrator Report (Kellen)*

The UCR Staff Executive will provide a management report covering recent activity for the Depository, Operations, and Communications.

**VIII. Other Business—UCR Board Chair**

The UCR Board Chair will call for any other business, old or new, from the floor.

**IX. Adjournment—UCR Board Chair**

The UCR Board Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, October 19, 2022 at: *https://plan.ucr.gov.*

**CONTACT PERSON FOR MORE INFORMATION:** Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

**Alex B. Leath,**

*Chief Legal Officer, Unified Carrier Registration Plan.*

[FR Doc. 2022–23100 Filed 10–20–22; 11:15 am]

**BILLING CODE 4910–YL–P**


# FEDERAL REGISTER

Vol. 87 Monday,
No. 204 October 24, 2022

Part II

## Federal Deposit Insurance Corporation

12 CFR Part 327
Assessments, Revised Deposit Insurance Assessment Rates; Final Rule

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 327**

**RIN 3064–AF83**

## Assessments, Revised Deposit Insurance Assessment Rates

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The FDIC is adopting a final rule to increase initial base deposit insurance assessment rate schedules by 2 basis points, beginning the first quarterly assessment period of 2023. The increase in the assessment rate schedules will increase the likelihood that the reserve ratio will reach the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028, consistent with the FDIC's Amended Restoration Plan, and is intended to support growth in the Deposit Insurance Fund (DIF or fund) in progressing toward the FDIC's long-term goal of a 2 percent Designated Reserve Ratio (DRR).

**DATES:** The final rule is effective January 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Michael Spencer, Associate Director, Financial Risk Management Branch, 202–898–7041, *michspencer@fdic.gov;* Ashley Mihalik, Chief, Banking and Regulatory Policy, 202–898–3793, *amihalik@fdic.gov;* Kayla Shoemaker, Senior Policy Analyst, 202–898–6962, *kashoemaker@fdic.gov;* Sheikha Kapoor, Senior Counsel, 202–898–3960, *skapoor@fdic.gov;* Ryan McCarthy, Senior Attorney, 202–898–7301, *rymccarthy@fdic.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. Legal Authority and Policy Objectives*

The FDIC, under its general rulemaking authority in Section 9 of the Federal Deposit Insurance Act (FDI Act), and its specific authority under Section 7 of the FDI Act to set assessments, is adopting a final rule to increase initial base deposit insurance assessment rate schedules by 2 basis points, effective January 1, 2023, and beginning the first quarterly assessment period of 2023 (*i.e.,* January 1 through March 31, 2023).[1]

The increase in the initial base assessment rate schedules will increase assessment revenue in order to rebuild the DIF, which is used to pay deposit insurance in the event of failure of an insured depository institution (IDI), and is intended to achieve complementary objectives.

Most immediately, the increase in the assessment rate schedules is intended to increase the likelihood that the reserve ratio will reach the statutory minimum of 1.35 percent within the deadline set by statute, consistent with the Restoration Plan, as amended by the FDIC's Board of Directors (Board) on June 21, 2022 (Amended Restoration Plan).[2] Once the DIF reaches 1.35 percent, the FDIC will no longer operate under a restoration plan. Any subsequent decline in the reserve ratio below the statutory minimum would, therefore, require the Board to establish a new restoration plan with an additional eight years to restore the reserve ratio. Alternatively, in the event that the industry experiences a downturn before the FDIC has exited its current Restoration Plan, the FDIC might have to consider larger assessment increases to meet the statutory requirement in a more compressed timeframe and under less favorable conditions.

Additionally, the increase in assessment rate schedules would support growth in the DIF in progressing toward the 2 percent DRR. Therefore, the assessment rate schedules adopted as part of this final rule will remain in effect unless and until the reserve ratio meets or exceeds 2 percent, absent further Board action. Progressively lower assessment rate schedules will become effective when the reserve ratio exceeds 2 percent and 2.5 percent.[3] This continued growth in the DIF is intended to reduce the likelihood that the FDIC would need to consider a potentially pro-cyclical assessment rate increase, and to increase the likelihood of the DIF remaining positive through potential future periods of significant losses due to bank failures, consistent with the FDIC's long-term fund management plan.[4] A sufficiently large fund is a necessary precondition to maintaining a positive fund balance during a banking crisis and allowing for long-term, steady assessment rates. Accomplishing these objectives will continue to ensure public confidence is maintained in federal deposit insurance.

*B. Restoration Plan*

Extraordinary growth in insured deposits during the first and second quarters of 2020 caused the DIF reserve ratio to decline below the statutory minimum of 1.35 percent.[5] On June 30, 2020, the reserve ratio was 1.30 percent. The FDI Act requires that the Board adopt a restoration plan when the DIF reserve ratio falls below the statutory minimum of 1.35 percent or is expected to within 6 months.[6] On September 15, 2020, the Board adopted the Restoration Plan to restore the DIF to at least 1.35 percent by September 30, 2028.[7]

In its June 21, 2022, semiannual update to the Board, FDIC projections of the reserve ratio under different scenarios indicated that the reserve ratio was at risk of not reaching 1.35 percent by September 30, 2028, the end of the statutory 8-year period.[8] The scenarios were based on data and analysis updated through March 31, 2022, the most recent data available at the time of the semiannual update, and incorporated different rates of insured deposit growth and weighted average assessment rates, including sustained elevated insured deposit balances and lower assessment rates than previously anticipated. On June 21, 2022, the Board approved the Amended Restoration Plan, which reflects an increase in initial base deposit insurance assessment rate schedules of 2 basis points, beginning the first quarterly assessment period of 2023.[9]

Under the Amended Restoration Plan, the FDIC will update its analysis and projections for the fund balance and reserve ratio at least semiannually and, if necessary, recommend modifications to the Amended Restoration Plan.

*C. Designated Reserve Ratio*

The FDI Act requires that the Board designate a reserve ratio for the DIF and publish the DRR before the beginning of each calendar year.[10] The Board must set the DRR in accordance with its analysis of certain statutory factors: risk of losses to the DIF; economic

[1] *See* 12 U.S.C. 1817 and 1819.

[2] Under the FDI Act, a restoration plan must restore the reserve ratio to at least 1.35 percent within 8 years of establishing the restoration plan, absent extraordinary circumstances. *See* 12 U.S.C. 1817(b)(3)(E). The reserve ratio is calculated as the ratio of the net worth of the DIF to the value of the aggregate estimated insured deposits at the end of a given quarter. *See* 12 U.S.C. 1813(y)(3). *See also* 87 FR 39518 (July 1, 2022).

[3] *See* 12 CFR 327.10(c) and (d).

[4] *See* 75 FR 66273 (Oct. 27, 2010) and 76 FR 10672 (Feb. 25, 2011). As used in this final rule, the term ''bank'' is synonymous with the term ''insured depository institution'' as it is used in section 3(c)(2) of the FDI Act, 12 U.S.C. 1813(c)(2).

[5] *See* 12 U.S.C. 1817(b)(3)(B).

[6] *See* 12 U.S.C. 1817(b)(3)(E).

[7] *See* 85 FR 59306 (Sept. 21, 2020).

[8] *See* FDIC Restoration Plan Semiannual Update, June 21, 2022. Available at *https://www.fdic.gov/news/board-matters/2022/2022-06-21-notice-sum-b-mem.pdf.*

[9] *See* 87 FR 39518 (July 1, 2022).

[10] Section 7(b)(3)(A) of the FDI Act, 12 U.S.C. 1817(b)(3)(A). The DRR is expressed as a percentage of estimated insured deposits.

conditions generally affecting IDIs; preventing sharp swings in assessment rates; and any other factors that the Board determines to be appropriate.[11]

In 2010, the FDIC proposed and later adopted a comprehensive, long-term management plan for the DIF with the following goals: (1) reduce the pro-cyclicality in the existing risk-based assessment system by allowing moderate, steady assessment rates throughout economic and credit cycles; and (2) maintain a positive fund balance even during a banking crisis by setting an appropriate target fund size and a strategy for assessment rates and dividends.[12] Based on the FDIC's experience through two banking crises, the analysis concluded that a long-term moderate, steady assessment rate of 5.29 basis points would have been sufficient to prevent the fund from becoming negative during the crises.[13] The FDIC also found that the fund reserve ratio would have had to exceed 2 percent before the onset of the last two crises to achieve these results.[14]

The FDIC's comprehensive, long-term fund management plan combines the moderate, steady assessment rate with a DRR of 2 percent. The Board set the DRR at 2 percent in 2010, and following consideration of the statutory factors, it has voted annually since then to maintain the 2 percent DRR. The FDIC is concurrently publishing in the **Federal Register** the Notice of Designated Reserve Ratio for 2023.[15]

The DRR was established as part of a plan to maintain a positive DIF balance, even during a banking crisis, by allowing the fund to grow sufficiently large during times of favorable banking conditions. Additionally, in lieu of dividends, the long-term plan prescribes progressively lower assessment rates that will become effective when the reserve ratio exceeds 2 percent and 2.5 percent.[16]

### *D. Risk-Based Deposit Insurance Assessments*

Pursuant to Section 7 of the FDI Act, the FDIC has established a risk-based assessment system through which it charges all IDIs an assessment amount for deposit insurance.[17]

Under the FDIC's regulations, an IDI's assessment is equal to its assessment base multiplied by its risk-based assessment rate.[18] Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[19] An IDI's risk-based assessment rate is determined each quarter based on supervisory ratings and information collected on the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate. An IDI's assessment rate is calculated using different methods based on whether the IDI is a small, large, or highly complex institution.[20] For assessment purposes, a small bank is generally defined as an institution with less than $10 billion in total assets, a large bank is generally defined as an institution with $10 billion or more in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company.[21]

Assessment rates for established small banks are calculated based on eight risk measures that are statistically significant in predicting the probability of an institution's failure over a three-year horizon.[22] Large and highly complex institutions are calculated using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that a large or highly complex bank poses to the DIF.[23]

All institutions are subject to adjustments to their assessment rates for certain liabilities that can increase or reduce loss to the DIF in the event the bank fails.[24] In addition, the FDIC may adjust a large bank's total score, which is used in the calculation of its assessment rate, based upon significant risk factors not adequately captured in the appropriate scorecard.[25]

### *E. The Proposed Rule*

On June 21, 2022, the Board adopted a notice of proposed rulemaking (the proposed rule, or proposal) to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points, beginning the first quarterly assessment period of 2023.[26] The proposed change was intended to increase assessment revenue in order to raise the reserve ratio to the statutory minimum threshold of 1.35 percent within 8 years of the Restoration Plan's initial establishment, as required by statute, and consistent with the Amended Restoration Plan, and to support growth in the DIF in progressing toward the 2 percent DRR. In lieu of dividends, the progressively lower assessment rate schedules currently in the regulation would remain unchanged and would come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment period reaches 2 percent and 2.5 percent, respectively.[27] The FDIC did not propose changes to the rate schedules that come into effect when the reserve ratio reaches 2 and 2.5 percent.

## II. Discussion of Comments Received on the Proposed Rule

In response to the proposed rule, the FDIC received a total of 171 comment letters. Of these, 102 were from IDIs or holding companies of IDIs, 10 were from trade associations, one was from

[11] Section 7(b)(3)(C) of the FDI Act, 12 U.S.C. 1817(b)(3)(C).

[12] *See* 75 FR 66272 (Oct. 27, 2010) (October 2010 NPR) and 76 FR 10672 (Feb. 25, 2011).

[13] *See* 75 FR 66273 and 76 FR 10675.

[14] The analysis set out in the October 2010 NPR sought to determine what assessment rates would have been needed to maintain a positive fund balance during the last two crises. This analysis used an assessment base derived from domestic deposits to calculate assessment income. The Dodd-Frank Wall Street Reform and Consumer Protection Act, however, required the FDIC to change the assessment base to average consolidated total assets minus average tangible equity. In the December 2010 final rule establishing a 2 percent DRR, the FDIC undertook additional analysis to determine how the results of the original analysis would change had the new assessment base been in place from 1950 to 2010. Both the analyses in the October 2010 NPR and the December 2010 final rule show that the fund reserve ratio would have needed to be approximately 2 percent or more before the onset of the crises to maintain both a positive fund balance and stable assessment rates. The updated analysis in the December 2010 final rule, like the analysis in the October 2010 NPR, assumed, in lieu of dividends, that the long-term industry average nominal assessment rate would be reduced by 25 percent when the reserve ratio reached 2 percent, and by 50 percent when the reserve ratio reached 2.5 percent. Eliminating dividends and reducing rates successfully limits rate volatility whichever assessment base is used. *See* 75 FR 66273 and 75 FR 79288 (Dec. 20, 2010) (December 2010 final rule).

[15] *See* 75 FR 79286 (Dec. 20, 2010), codified at 12 CFR 327.4(g), *see also* Notice of Designated Reserve Ratio for 2023, available at *https://www.fdic.gov/news/board-matters/2022/2022-10-18-notice-sum-c-fr.pdf.*

[16] *See* 75 FR 66273 and 75 FR 79287.

[17] *See* 12 U.S.C. 1817(b).

[18] *See* 12 CFR 327.3(b)(1).

[19] *See* 12 CFR 327.5.

[20] *See* 12 CFR 327.16(a) and (b).

[21] As used in this final rule, the term ''small bank'' is synonymous with the term ''small institution'' and the term ''large bank'' is synonymous with the term ''large institution'' or ''highly complex institution,'' as the terms are defined in 12 CFR 327.8(e), (f), and (g), respectively.

[22] *See* 12 CFR 327.16(a); *see also* 81 FR 32180 (May 20, 2016).

[23] *See* 12 CFR 327.16(b); *see also* 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

[24] *See* 12 CFR 327.16(e).

[25] *See* 12 CFR 327.16(b)(3); *see also* Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions, 76 FR 57992 (Sept. 19, 2011).

[26] *See* 87 FR 39388 (July 1, 2022).

[27] *See* 12 CFR 327.10(c) and (d).

members of Congress, and 58 were from other interested parties, primarily individuals affiliated with community banks.[28]

While many commenters expressed support for the continued strength and resilience of the DIF, the vast majority of the comment letters expressed concern over the burden of the proposed increase in assessment rate schedules of 2 basis points on the banking industry, particularly community banks. Nearly half of all commenters stated that the proposed increase in assessment rate schedules of 2 basis points is unnecessary for the reserve ratio to reach the statutory minimum of 1.35 percent by the statutory deadline, with most disagreeing with one or more of the assumptions underlying the projections that informed the proposal. Many suggested alternatives to adjust, delay or rescind the proposed increase in assessment rate schedules of 2 basis points, or implement a risk- or size-based approach to increasing assessment rates. Two commenters were generally supportive in recognition of the need to restore the reserve ratio to the statutory minimum and to reach the long-term goal of a 2 percent DRR.

*Comments on Insured Deposit Growth Assumption*

Many commenters disagreed with annual insured deposit growth rates assumed in the scenario analysis that informed the proposal, though many broadly discussed trends in deposits and did not specifically address insured deposits. These commenters generally observed that deposits appear to be declining or normalizing and expect a similar trend going forward. Some commenters maintained that the factors that boosted deposits over the past few years have all reversed. Commenters addressed factors influencing deposit levels including higher interest rates, a normalizing spread between money market rates and deposit rates leading to enhanced competition from money market funds, quantitative tightening, increased costs, reduced savings rates, and the conclusion of pandemic relief-related fiscal stimulus in the first quarter of 2021. One commenter stated that to the extent excess deposits still exist, they are invested in the safest asset classes, mitigating the need for a buffer above the statutory minimum reserve ratio.

The FDIC's analysis and related assumptions focus only on insured deposit growth rather than total deposit growth because the reserve ratio is measured as the net worth of the DIF relative to the value of aggregate estimated insured deposits at the end of a given quarter. While most commenters did not distinguish between total deposits and insured deposits, it is important to note that insured deposit growth is difficult to predict and can differ, sometimes substantially, from total deposit growth in both magnitude and direction. For example, in the first half of 2022, total deposits decreased by 0.7 percent, while insured deposits increased by 1.6 percent.

In the scenario analysis that informed the proposal, and as updated in this final rule and described further in the section on *Projections for the Fund Balance and Reserve Ratio,* the FDIC assumed annual insured deposit growth rates of 3.5 and 4.0 percent. These insured deposit growth rates represent retention of a range of excess insured deposits resulting from the pandemic. The assumption of a 4.0 percent annual growth rate reflects retention of all of the estimated $1.13 trillion of excess deposits in insured accounts, with this amount not contributing to further growth, while the remaining balance of insured deposits continues to grow at the pre-pandemic average annual rate of 4.5 percent.[29] Alternatively, a 3.5 percent annual growth rate assumption reflects banks retaining almost two thirds of the estimated excess insured deposits resulting from the pandemic, with this amount not contributing to further growth, while the remaining balance of insured deposits grows at the pre-pandemic average annual rate of 4.5 percent.

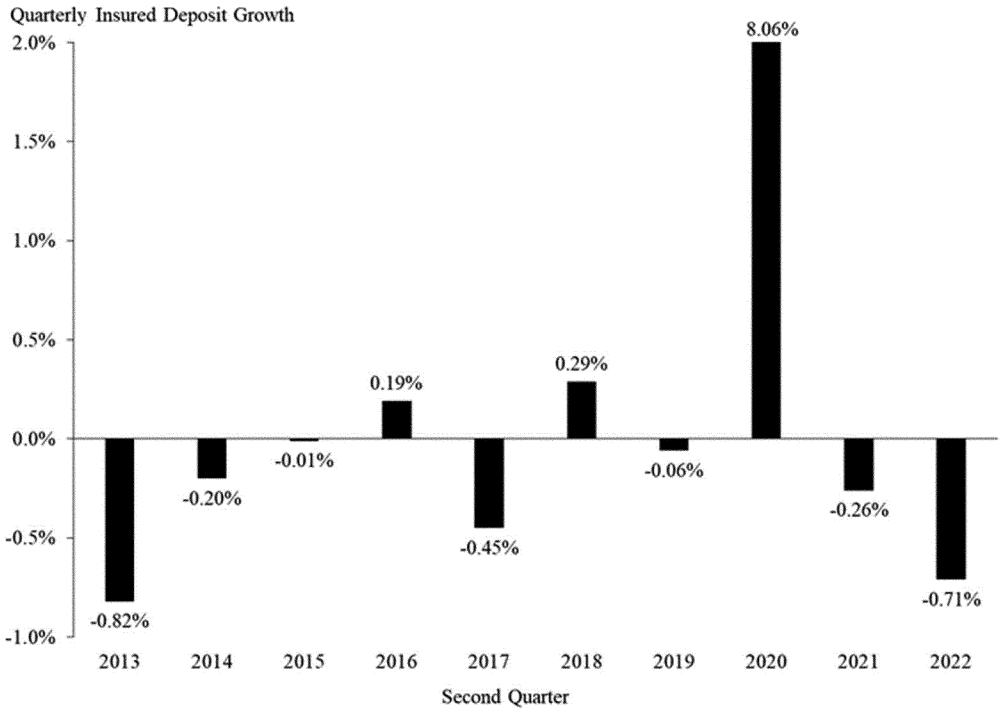
While insured deposits declined by 0.7 percent in the second quarter of 2022, it is the FDIC's view that that the decline does not necessarily indicate that the excess insured deposits that resulted from various fiscal policy programs implemented during the pandemic are receding beyond the scenarios described above in the near-term. In fact, a decline in insured deposits in the second quarter is not unusual. As illustrated in Chart 1, insured deposits declined in the second quarter in six out of the last nine years. Importantly, even with the decline in insured deposits during the second quarter of 2022, insured deposit balances remain elevated in comparison to what the balance of insured deposits would have been had they grown at the pre-pandemic average annual rate of 4.5 percent, indicating that none of the excess insured deposits resulting from the pandemic have receded. Rather than receding, as previously expected, excess deposits have risen from an estimated $1.13 trillion at the end of the second quarter of 2021 to $1.17 trillion through the second quarter of 2022.

Chart 1. Historical Second Quarter Insured Deposit Growth

[28] *See* comments on the proposal. Available at *https://www.fdic.gov/resources/regulations/federal-register-publications/2022/2022-assessments-revised-deposit-insurance-assessment-rates-3064-af83.html.* Two late comment letters were received after the comment period closed on August 20, 2022. The views presented in the comment letters are addressed in this section.

[29] In its December 14, 2021, semiannual update to the Board, the FDIC estimated that excess insured deposits that flowed into banks as the result of actions taken by monetary and fiscal authorities, and by individuals, businesses, and financial market participants in response to the pandemic totaled approximately $1.13 trillion. This estimate reflects the amount of insured deposits as of September 30, 2021, in excess of the amount that would have resulted if insured deposits had grown at the pre-pandemic average rate of 4.5 percent since December 31, 2019. By September 30, 2021, deposit balances would have fully reflected the more significant actions taken by monetary and fiscal authorities in response to the COVID–19 pandemic. September 2021 was also the first month that the personal savings rate declined to a level within the range reported during the year prior to the pandemic. Rather than receding, as previously expected, these excess insured deposits have grown by about $43 billion through June 30, 2022.

Chart 1. Historical Second Quarter Insured Deposit Growth




It is possible that insured deposits could grow faster or slower than the 3.5 percent to 4 percent range assumed for this analysis. If insured deposits grow at a slower rate, as a number of commenters argued would happen, the statutory minimum reserve ratio would be achieved sooner, and if insured deposits grow at a faster rate, the statutory minimum reserve ratio would be achieved later. Generally speaking, this final rule is not based on the assumption that the most favorable future scenarios for the reserve ratio will materialize, but addresses the need to achieve the statutory minimum reserve ratio given the conditions that currently exist.

In this regard, insured deposits increased by 4.3 percent between second quarter 2021 and second quarter 2022, a growth rate that is higher than the rate of insured deposit growth assumed in both scenarios in the analysis supporting the proposal and this final rule. Between the first quarter of 2020 and the first quarter of 2022, annual insured deposit growth rates ranged between 4.8 percent and 16.6 percent, and averaged 10.6 percent, more than double the pre-pandemic average of 4.5 percent. While recent insured deposit growth rates more closely align with historical averages, these growth rates are applied to a total balance of insured deposits that is still elevated from the pandemic response efforts. For these reasons, the FDIC continues to view the assumed annual insured deposit growth rates of 3.5 and 4.0 percent as reasonable, while recognizing that insured deposit growth is difficult to project and depends on several factors detailed in the section on *Deposit Balance Trends* below.

*Comments on Investment Income Assumption*

Seven commenters disagreed with the FDIC's assumption of zero investment income on the DIF portfolio. Some commenters challenged the assumption based on recent increases in interest rates and the Federal Open Market Committee's outlook for the overnight rate over the longer term. Other commenters generally stated that forecasts do not reflect current conditions and were made at a time when volatility was high and uncertainty was significant. A few commenters specified that an increase in assessment rates is not warranted because of a decrease in the reserve ratio due to unrealized losses on the DIF portfolio.

In the FDIC's view, an assumption of zero net investment contributions—defined for purposes of this final rule to include both interest income and unrealized gains or losses—remains a reasonably conservative assumption over the near-term. Elevated unrealized losses resulted in negative net investment contributions of $339 million in the fourth quarter of 2021, and $1,495 million and $322 million in the first and second quarters of 2022, respectively.[30] Moving into the third quarter of 2022, interest rates have continued to rise and unrealized losses will likely continue to reduce net investment contributions, below the assumed amount of zero. Future market movements may temporarily increase unrealized losses.

While net investment contributions have been relatively flat to slightly negative since the Restoration Plan was first established in September 2020, interest rate increases have gradually lifted interest income on the DIF portfolio in recent months and over time unrealized losses should eventually be outpaced by higher levels of interest income. However, given the uncertainty of the timing and magnitude of interest rate increases and the effects on the DIF portfolio, it is the FDIC's view that zero net investment contributions remains a reasonably conservative assumption over the near-term. In the longer-term,

[30] The FDIC publicly reports on DIF indicators and performance, including investment portfolio performance, each quarter through the FDIC Quarterly Banking Profile and annually in the FDIC's Annual Report. FDIC Quarterly Banking Profile available at *https://www.fdic.gov/analysis/quarterly-banking-profile/index.html.* FDIC Annual Report available at *https://www.fdic.gov/about/financial-reports/reports/index.html.*

projections for reaching the 2 percent DRR already assume positive net investment contributions after the reserve ratio reaches 1.35 percent, based on market-implied forward rates, and including additional net investment contributions in the near-term had little effect on the analysis for reaching the 2 percent DRR.[31] When rates stabilize and interest income begins to outpace unrealized losses on the DIF portfolio, resulting in positive net investment contributions, the FDIC will consider revisiting assumptions in future semiannual updates accordingly.

Net investment contributions have played a secondary role in overall DIF growth, relative to assessment revenue. From 2013 to 2021, for example, assessment revenue was more than eight times net investment contributions. Over that period, the DIF grew by about $90 billion. Net investment contributions were approximately $9 billion and assessment revenue was almost $76 billion, illustrating the importance of assessment revenue relative to net investment contributions in determining the outcome of the DIF. This is consistent with the objectives of the DIF investment portfolio, which prioritize preservation of funds available to absorb losses from bank failures over maximizing investment income. While the FDIC realizes that the larger fund balance and higher interest rate environment relative to those experienced from 2013 to 2021 could result in a more meaningful contribution to the growth of the DIF, the timing and amount are highly uncertain.

For these reasons, the FDIC continues to view the assumption of zero net investment contributions in the near-term as reasonable. Relying on projections based on a higher rate of return in the near-term could prove overly optimistic given the uncertainty in the potential effects of future movements in monetary policy and the potential for further unrealized losses on securities in the DIF portfolio prior to the statutory deadline.

Several commenters additionally asserted that if the FDIC is not able to responsibly manage its investments, the solution should not be to shift the burden to banks.

Management of the DIF portfolio is governed by statute and the Corporate Investment Policy. The FDI Act requires that DIF funds be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.[32] In managing the DIF investment portfolio, the Corporation's stated objectives include ''managing money in a professional manner, consistent with maintaining confidence in the deposit insurance program and with the Corporation's strategic objective that the Deposit Insurance Fund remains viable.'' [33] DIF funds may be invested in Treasury securities with maturities up to 12 years; however, current holdings are shorter to ensure liquidity, without necessitating the sale of securities.

*Comments on Effect on the Banking Industry*

147 commenters expressed concern for the impact to bank profitability, operating expenses, and capital. Most of these commenters requested adjustment, delay, or rescission of the proposed rate increase. A few of these commenters expressed concern that the proposed increase in assessment rate schedules of 2 basis points represented a sharp or dramatic increase in assessment rates, which some of these commenters argued is inconsistent with the legislative language and spirit of the assessment rate-related provisions of the FDI Act. Several commenters also maintained that analysis included in the proposal on the effect of the rate increase on capital and earnings underestimated the potential impact on institutions or did not fully evaluate the potential effects on certain cohorts of institutions, including IDIs with total assets between $750 million and $10 billion. One commenter expressed that uncertainty does not justify the proposed burdensome assessment rate increase.

A number of comments from smaller institutions and their holding companies and trade groups stated that the increase in assessment rates would be difficult for community banks to absorb, particularly if the economy enters a recessionary period, and that the proposal will disproportionately burden community banks that do not pose significant risk to the DIF. A few of these commenters stated that an increase in assessments exacerbates the competitive disadvantage of community banks relative to credit unions and felt the increase would further accelerate consolidation in the industry. Some of these commenters requested that that the FDIC consider excluding pandemic-related deposit balance increases when applying the increase in assessment rates.[34]

It is the FDIC's view that the proposed increase in assessment rate schedules of 2 basis points does not represent a sharp or dramatic increase. As illustrated in Chart 2, increasing assessment rates by 2 basis points in the most recent quarter would have resulted in a weighted average assessment rate that is consistent with assessment rates from recent history.

Chart 2. Historical Weighted Average Assessment Rates Compared with the Most Recent Weighted Average Assessment Rate with an Increase of 2 Basis Points

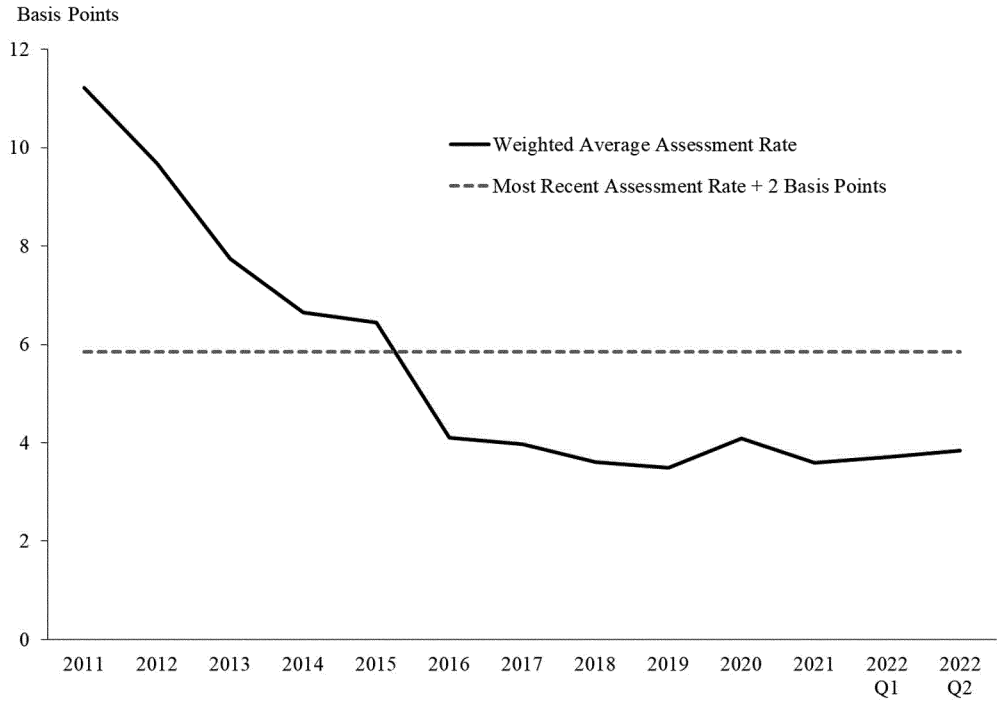
[31] Projections for reaching the 2 percent DRR assume net investment contributions to the DIF of zero until the reserve ratio reaches 1.35 percent. Net investment contributions assumptions are then based on market-implied forward rates from that point forward. Applying this assumption for the entire projection period does not significantly accelerate the achievement of a 2 percent DRR (the reserve ratio would reach 2 percent in 2031 instead of 2032).

[32] *See* 12 U.S.C. 1823(a). The Secretary of the Treasury must approve all such investments in excess of $100,000 and has granted the FDIC approval to invest the DIF funds only in U.S. Treasury obligations that are purchased or sold exclusively through the Treasury's Bureau of the Fiscal Service's Government Account Series program.

[33] *See* Federal Deposit Insurance Corporation Corporate Investment Policy (2018), available at *https://www.fdic.gov/deposit/insurance/corporate-investment-policy.pdf.*

[34] In June 2020, the FDIC adopted a final rule that mitigates the deposit insurance assessment effects of participating in the Paycheck Protection Program (PPP) established by the Small Business Administration (SBA), and the Paycheck Protection Program Liquidity Facility (PPPLF) and Money Market Mutual Fund Liquidity Facility (MMLF) established by the Board of Governors of the Federal Reserve System. *See* 85 FR 38282 (June 26, 2020).

Chart 2. Historical Weighted Average Assessment Rates Compared with the Most Recent Weighted Average Assessment Rate with an Increase of 2 Basis Points




In addition, an increase in assessment rate schedules of 2 basis points would bring the average assessment rate close to the moderate steady assessment rate of 5.29 basis points that would have been required in a simulated fund analysis covering the years 1950 through 2010, to maintain a positive DIF balance over that period, including through two banking crises.[35] During the 2008 financial crisis, the FDIC uniformly raised assessments by 7 basis points and, as part of a Restoration Plan in place at the time, levied a special assessment of 5 basis points.

In response to comments that community banks will be disproportionately burdened by the assessment increase relative to large banks, the FDIC notes that in 2010, the Dodd-Frank Act required that the FDIC amend its regulations to redefine the assessment base to more closely approximate a bank's total liabilities, rather than only its domestic deposits.[36] As Congress intended, the revised assessment base and accompanying change in rates shifted more of the total burden of assessments to the largest banks from the rest of the industry.[37] Consistent with that approach, a uniform increase of 2 basis points with no change to assessment base is expected to generate over 80 percent of additional assessment revenue from banks with more than $10 billion in assets, approximately proportional to their share of industry assets.

As some commenters note, the increase in assessment rates may affect some institutions more than others. Because deposit insurance assessments are risk-based, for the least risky institutions—those paying the lowest rate—an increase in assessment rate schedules of 2 basis points would result in a greater percent increase in assessments, compared with institutions that are assigned a higher assessment rate. The proposed increase in assessment rate schedules is uniform and applies to all IDIs, so the resulting assessment rates will continue to be the lowest for institutions determined to be the least risky, and higher for riskier institutions. Given the results for the entire industry summarized in Tables 9 and 10 in the section on *Capital and Earnings Analysis and Expected Effects* below, the FDIC does not believe the rule will have material distributional effects.

As described in the section on *Capital and Earnings Analysis and Expected Effects* below, for the industry as a whole, the FDIC estimates that a uniform increase in assessment rate schedules of 2 basis points would decrease Tier 1 capital by an estimated 0.1 percent but would not directly result in any institutions becoming undercapitalized or critically undercapitalized. The FDIC also estimates that a uniform increase in assessment rate schedules of 2 basis points would reduce income slightly by an average of 1.2 percent, which includes an average of 1.0 percent for small banks and an average of 1.3 percent for large and highly complex institutions.[38] As summarized in Tables

[35] *See* 75 FR 66273 and 76 FR 10675.

[36] *See* Public Law 111–203, section 331(b), 124 Stat. 1376, 1539 (codified at 12 U.S.C. 1817(b)).

[37] *See* 156 Cong. Rec. S3296–99 (daily ed. May 6, 2010) (statements of Sens. Hutchison and Tester) and 76 FR 10672, 10701 (February 25, 2011). The statements by members of Congress made clear that Congress expressly intended this result and viewed the new assessment base as a better measure of risk than the previous base of domestic deposits. All else equal, the larger assessment base would have increased assessments paid by virtually every bank. However, in implementing the new assessment base the FDIC also adjusted the range of risk-based assessment rates to produce approximately the same revenue under the new base as would have been raised under the old base.

[38] Earnings or income are annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022. The Tax Cuts and Jobs Act of 2017 placed a limitation on tax deductions for FDIC premiums for banks with total consolidated assets between $10 and $50 billion and disallowed the deduction entirely for banks with total assets of $50 billion or more. *See* the Tax Cuts and Jobs Act, Public Law 115–97 (Dec. 22, 2017). For assessment purposes, a

Continued

8 through 10 in the section on *Capital and Earnings Analysis and Expected Effects* below, approximately 4 percent of profitable institutions are projected to experience an increase in assessments of 5 percent of income or more, including less than one percent of large and highly complex institutions and less than 5 percent of profitable small banks. The increase in assessment rate schedules is projected to have an insignificant effect on institutions' capital levels and is unlikely to have a material effect relative to income for almost all institutions.

The banking industry continues to report favorable credit quality, earnings, and capital levels, supporting its ability to meet the country's banking needs while navigating the challenges presented by inflationary pressures, rising interest rates, and the end of pandemic support programs for borrowers. The banking industry has reported strong earnings in recent quarters, remained resilient through the second quarter of 2022 despite the extraordinary challenges of the pandemic, and is well positioned to absorb a modest increase in assessment rate schedules of 2 basis points.

In fact, 32 commenters cited the strength of the banking industry in advocating for adjustment, delay, or rescission of the proposed assessment rate increase, stating that the relative strength of the banking industry, and higher levels of capital and reserves, mean that there is likely little need for additional funds to cover potential losses in the near-term.

Several commenters stated that it would be difficult to absorb the proposed increase in assessment rates in the event of an economic downturn. A few of these commenters stated that the timing of the proposed increase is increasingly likely to coincide with the beginning of a recession and therefore risks causing exactly the type of pro-cyclical increase that Congress sought to avoid. In particular, one commenter expressed concern that raising assessment rates could destabilize the banking sector at a time when its services are critical, particularly as there are significant uncertainties looking forward.[39]

The FDIC recognizes that the banking industry faces significant downside risks. Future economic and banking conditions remain uncertain due to high inflation, rising interest rates, slowing economic growth, and geopolitical uncertainty. Higher interest rates may also erode real estate and other asset values as well as hamper borrowers' loan repayment ability. Any of these uncertainties present challenges and could have longer-term effects on the condition and performance of the economy and the banking industry.

In the FDIC's view, now is a reasonable time for a modest increase in assessment rate schedules, while the banking industry is strong, as it continues to report favorable credit quality, earnings, and capital levels, and is experiencing a prolonged period without bank failures. The FDIC working paper referenced by one commenter documents the pro-cyclical effect of deposit insurance premiums on bank lending during the financial crisis of 2008–2009. A modest increase in assessment rate schedules while the banking industry is strong is consistent with the findings of the working paper, reducing the likelihood that the FDIC would need to consider a larger increase in assessment rates when the banking industry is experiencing a downturn. Adoption of an increase in assessment rate schedules will allow for the reserve ratio to be restored to the statutory minimum and then will generate a buffer to absorb unexpected losses, accelerated insured deposit growth, or lower average assessment rates that may materialize. The FDIC believes that the additional revenue collected under the proposed increase in assessment rate schedules will strengthen the DIF's ability to withstand potential future periods of significant losses due to bank failures and will reduce the likelihood that the FDIC would need to increase assessment rates or impose a special assessment during a potential future banking crisis.

*Comments on Alternatives*

Most commenters suggested the FDIC adjust, delay, or rescind the proposed 2 basis point increase in assessment rate schedules. Most commenters advocating for rescission of the proposal expressed concerns over the expected effects or suggested that if assumptions underlying projections were changed and applied using updated data, the resulting analysis may show that there is no risk that the reserve ratio would not reach the 1.35 percent statutory minimum, and therefore any increase in assessment rates would be unnecessary. Those advocating for delay often recommended this alternative so that the data and assumptions underlying the proposal could be revisited after trends related to insured deposit growth or investment contributions become clearer.

Other alternatives that were recommended included revising the proposal to end the increase in assessment rates after the reserve ratio reaches 1.35 percent, implementing a lower rate increase based on different or updated assumptions, and implementing a series of incremental increases while retaining the flexibility to adjust rates.

The FDIC is not adopting these suggested alternatives to delay, rescind, or reduce the proposed increase in assessment rate schedules of 2 basis points. As described in the section on *Projections for the Fund Balance and Reserve Ratio* below, applying the same assumptions used in the proposal but using data through June 30, 2022, the latest data available at the time of publication, the FDIC continues to project that, absent an increase in assessment rates, the reserve ratio is at risk of not reaching the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028.

When the FDIC first established the Restoration Plan in September 2020, the reserve ratio stood at 1.30 percent. The reserve ratio increased in only two out of the eight quarters in which the Restoration Plan has been in place and regressed over that period to 1.26 percent as of June 30, 2022.

The FDIC has a statutory obligation to restore the reserve ratio to the statutory minimum of 1.35 percent within 8 years of establishing the Restoration Plan.[40] Further, the FDIC is neither required nor expected to wait until near the statutory deadline to do so. Reaching the statutory minimum reasonably promptly and in advance of the statutory deadline strengthens the fund so that it can better withstand unexpected losses and reduce the likelihood of pro-cyclical assessments. In the FDIC's view, now is a reasonable time for a modest rate increase, while the banking industry is strong and experiencing a prolonged period without bank failures. The proposed increase in assessment rate schedules of 2 basis points will bring the average assessment rate close to the moderate steady assessment rate of 5.29 basis points that would have been required in a simulated fund analysis covering the years from 1950 through 2010 to maintain a positive DIF balance throughout that time period, including

small bank is generally defined as an IDI with less than $10 billion in total assets.

[39] This commenter references a recent FDIC working paper with findings that suggest that deposit insurance premiums can be a significant driver of bank credit pro-cyclicality. *See* R. Hess and J. Rhee, FDIC Center for Financial Research Working Paper No. 2022–10, ''The Procyclicality of FDIC Deposit Insurance Premiums,'' August 2022, available at *https://www.fdic.gov/analysis/cfr/working-papers/2022/cfr-wp2022-10.pdf.*

[40] *See* 12 U.S.C. 1817(b)(3)(E).

through two banking crises.[41] Restoring the fund to its minimum reserve ratio, and continuing to build it towards the 2 percent DRR, reduces the risk that the FDIC would need to consider a larger increase in assessments at a later time when banking and economic conditions may be less favorable and when the industry might least be able to afford it.

The FDIC has considered the alternatives raised by commenters along with other reasonable and possible alternatives to the rule described below in the section on *Alternatives Considered,* but believes, on balance, that an increase in assessment rate schedules of 2 basis points, with such increase remaining in effect unless and until the reserve ratio meets or exceeds 2 percent, is the most appropriate and most straightforward manner in which to achieve the objectives of the Amended Restoration Plan and the long-term fund management plan.

*Comments Proposing Risk- or Size-Based Alternatives to Increasing Rates*

While most commenters suggested alternatives to adjust, delay, or rescind the proposed 2 basis point increase in assessment rate schedules for the reasons described above, 33 commenters urged the FDIC to alternatively consider implementing a risk- or size-based approach to increasing assessment rates. Most of these commenters requested that the increase in assessment rates be tailored to apply higher rates to larger or more complex banks, or banks that pose a greater risk to the DIF. Several commenters requested a specific carve-out from the rate increase for community banks, particularly community banks that are well capitalized, or that the FDIC give weight to improvements in bank safety and soundness in proposing rate increases. One commenter specifically proposed a risk-based approach to increasing assessment rates to further incent appropriate balance sheet risk management practices. Another commenter generally opposed the proposal in part based on the belief that the statutory minimum reserve ratio of 1.35 percent is insufficient to absorb losses in the event of the failure of a systemically important financial institution (SIFI) and recommended the establishment of a separate fund for SIFIs.

Under the FDI Act, the FDIC is required to establish an assessment system for all banks based on risk.[42] As authorized by law and pursuant to rulemakings, the FDIC has implemented separate risk-based pricing methods for large and small banks.[43] Under the facts and circumstances, as well as the statutory factors that the FDIC is required to consider treating IDIs with the same or similar risk profiles differently from each other for assessments purposes may not conform to those relevant factors in this particular instance, and may not be appropriate given the FDIC's policy objectives with respect to long-term fund management.

The FDIC has considered the risk- and size-based alternatives raised by commenters along with other reasonable and possible alternatives to the rule described below in the section on *Alternatives Considered,* but believes, on balance, that the proposed uniform increase in assessment rate schedules of 2 basis points is the most appropriate and most straightforward manner in which to achieve the objectives of the Amended Restoration Plan and the long-term fund management plan. While the 2 basis point increase in assessment rates would generally result in a uniform increase across assessment rate schedules, the FDIC continues to maintain a risk-based deposit insurance assessment system, meaning that assessment rates for individual institutions are determined based on the risk posed to the DIF.[44]

*Comment on Expected Effects on Community Development Financial Institutions and Minority Depository Institutions*

One comment letter expressed concern about the proposal's potential to erode community benefits from economic recovery and racial equity motivated investments supported by Community Development Financial Institutions (CDFIs) and Minority Depository Institutions (MDIs) preparing to increase their deposit levels in response to these investments. This commenter requested that the FDIC provide an exemption from the increase in assessment rates for CDFI and MDI banks.

MDIs play a unique role in promoting economic viability in minority and low- or moderate-income communities. The FDIC has long recognized the unique role and importance of MDIs. The FDIC's MDI Program strives to preserve minority-owned and minority-led financial institutions, encourage the creation of new MDIs, and provide training, technical assistance, and educational programs for MDIs. The FDIC also facilitates collaborative strategies with public and private partners to help build capacity and scale. The Minority Depository Institutions Subcommittee of the FDIC's Advisory Committee on Community Banking (CBAC) provides advice to the CBAC regarding the FDIC's MDI program; offers a platform for MDIs to promote collaboration, partnerships, and best practices; and identifies ways to highlight the work of MDIs in their communities.

CDFIs play a critical role in expanding economic opportunity in low-income communities by providing access to financial products and services for local residents and businesses. The FDIC supports the work CDFIs do to revitalize distressed communities, and the agency has long been committed to promoting economic inclusion by helping to build and strengthen positive connections between insured financial institutions and consumers, depositors, small businesses, and communities. The FDIC's Advisory Committee on Economic Inclusion was established to provide the agency with advice and recommendations on important initiatives focused on expanding access to banking services by underserved populations.

The FDIC has placed significant emphasis on and resources to preserve, promote, and build capacity in MDIs and CDFIs, and mission-driven banks continue to be an important focal point for the FDIC. As explained above in the section addressing *Comments Proposing Risk- or Size-Based Alternatives to Increasing Rates,* under the FDI Act, the FDIC is required to establish an assessment system for all banks based on risk.[45] As authorized by law and pursuant to rulemakings, the FDIC has implemented separate risk-based pricing methods for large and small banks.[46] Under the facts and circumstances, as well as the statutory factors that the FDIC is required to consider treating IDIs with the same or similar risk profiles differently from each other for assessments purposes may not conform to those relevant factors in this particular instance, and may not be appropriate given the FDIC's policy objectives with respect to long-term fund management.

*Comments on Expected Effects Due to Deposit Growth From Pandemic Relief*

Several commenters expressed the view that community banks should not be punished for elevated deposit levels

[41] *See* 75 FR 66273 and 76 FR 10675.

[42] *See* 12 U.S.C. 1817(b)(1).

[43] *See* 71 FR 69282 (November 30, 2006) and 12 U.S.C. 1817(b)(1)(D).

[44] *See* 12 U.S.C. 1817(b)(1).

[45] *See* 12 U.S.C. 1817(b)(1).

[46] *See* 71 FR 69282 (November 30, 2006) and 12 U.S.C. 1817(b)(1)(D).

that were driven by pandemic relief measures, including participation in the Paycheck Protection Program (PPP).

In recognition that the PPP established by the Small Business Administration, and the Paycheck Protection Program Liquidity Facility and Money Market Mutual Fund Liquidity Facility established by the Board of Governors of the Federal Reserve System, were put into place to provide financing to small businesses, liquidity to small business lenders and the broader credit markets, and to help stabilize the financial system in a time of significant economic strain, in June 2020, the FDIC adopted a final rule, applicable to all IDIs, that mitigates the deposit insurance assessment effects of participating in these programs.[47] The FDIC continues to provide assessment relief pursuant to that final rule.

*Comments on Effect on Consumers*

Several commenters expressed concern that the proposed increase in assessment rates may restrain credit, reduce product and service offerings, slow deposit rate increases, or result in higher or new fees to customers, to the detriment of consumers and businesses. In particular, one commenter expressed concern that larger banks focused on profits may push deposit customers away to decrease their assessment liability, which could create additional burden on the unbanked and underbanked.

It is the FDIC's view that now is a reasonable time to modestly raise rates while the banking industry is strong, rather than to delay and potentially be forced into a larger increase at a time when banking and economic conditions may be less favorable.

*Comments on the Designated Reserve Ratio*

Twenty-three commenters urged the FDIC to consider why 2 percent is the DRR or update the analysis underlying this goal. Many of these commenters stated that the 2 percent DRR was determined prior to the full implementation of the current prudential standards, safety and soundness safeguards, and capital requirements and that these enhancements mitigate the risk of bank failures on a scale that would significantly reduce the DIF. As noted above in the *Comments on Alternatives,* a few commenters challenged the proposed increase of 2 basis points on the basis that the statute only requires that the reserve ratio reach 1.35 percent whereas the rate increase would remain in place until the reserve ratio reaches 2 percent. Several of these commenters recommended that the FDIC reconsider and follow the statute to achieve 1.35 percent and, at that time, end or reassess the need for any rate increase.

The FDIC believes a 2 percent DRR complements enhancements in the regulatory framework, including the Dodd-Frank Act and Basel III, and that these enhancements in combination with a 2 percent DRR would make the financial sector more resilient and reduce the likelihood of future crises. While the FDIC hopes that these enhancements will make financial crises less likely and reduce losses to the DIF, it would be imprudent for the FDIC to assume that banking crises are a thing of the past. The 2008 banking crisis occurred despite extensive legislative changes to the banking and regulatory system that were made in response to the crisis of the late 1980s and early 1990s.

After considering updated analysis of the statutory factors, the Board set the DRR at 2 percent again in October 2022 and the FDIC is concurrently publishing in the **Federal Register** the Notice of Designated Reserve Ratio for 2023. The 2 percent DRR is an integral part of the FDIC's comprehensive, long-range management plan for the DIF. A fund that is sufficiently large continues to be a necessary precondition to maintaining a fund balance during a banking crisis and allowing for long-term, steady assessment rates.[48] The updated analysis of the statutory factors is described in detail in the Memorandum to the Board on the Designated Reserve Ratio for 2023, published to the FDIC's website.[49]

For these reasons, the FDIC has determined that it is appropriate for the new assessment rate schedules to remain in effect unless and until the reserve ratio meets or exceeds 2 percent, absent further Board action. The proposed rate increase would accelerate the timeline for the reserve ratio to reach 2 percent, after which point lower rate schedules will go into effect.

## III. The Final Rule

### *A. Description of the Final Rule*

After careful consideration of the comments received on the proposal and analysis of the applicable statutory factors, updated with the most recent data available, the FDIC is adopting as final, and without change, the proposed rule to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points, beginning the first quarterly assessment period of 2023. Under the final rule, the new assessment rate schedules will remain in effect unless and until the reserve ratio meets or exceeds 2 percent, absent further Board action.

Under the final rule, the FDIC is retaining the Board's flexibility to adopt higher or lower total base assessment rates without the necessity of further notice-and-comment rulemaking, provided that the Board cannot increase or decrease rates from one quarter to the next by more than 2 basis points, and cumulative increases and decreases cannot be more than 2 basis points higher or lower than the total base assessment rates set forth in the assessment rate schedules.[50] Retention of this flexibility continues to allow the Board to act in a timely manner to fulfill its mandate to raise the reserve ratio, particularly in light of the uncertainty related to insured deposit growth and the economic outlook. Maintaining the ability to adjust rates within limits without notice-and-comment rulemaking is consistent with the FDIC's well-established practice and will allow the FDIC to act expeditiously to adjust rates in the face of constantly changing conditions.

### *B. Assessment Rate Schedules Beginning the First Quarterly Assessment Period of 2023*

Assessment Rates for Established Small Institutions and Large and Highly Complex Institutions Beginning the First Assessment Period of 2023

Pursuant to the FDIC's authority to set assessments, the initial and total base assessment rates applicable to established small institutions and large and highly complex institutions set forth in Tables 1 and 2 below will take effect beginning the first quarterly assessment period of 2023.

[47] *See* 85 FR 38282 (June 26, 2020).

[48] *See* 75 FR 79286 (Dec. 20, 2010), codified at 12 CFR 327.4(g).

[49] *See* Notice of Designated Reserve Ratio for 2023, available at *https://www.fdic.gov/news/board-matters/2022/2022-10-18-notice-sum-c-fr.pdf.*

[50] *See* 12 CFR 327.10(f).

TABLE 1—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [1]

| | Established small institutions | | | Large & highly complex institutions |
|---|---|---|---|---|
| | CAMELS Composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Initial Base Assessment Rate | 5 to 18 | 8 to 32 | 18 to 32 | 5 to 32 |

[1] All amounts are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

An institution's total base assessment rate may vary from the institution's initial base assessment rate as a result of possible adjustments for certain liabilities that can increase or reduce loss to the DIF in the event the institution fails.[51] These adjustments do not reflect a change and are consistent with the current assessment regulations. After applying all possible adjustments, the minimum and maximum total base assessment rates applicable to established small institutions and large and highly complex institutions beginning the first quarterly assessment period of 2023 are set out in Table 2 below.

TABLE 2—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [2]

| | Established small institutions | | | Large & highly complex institutions |
|---|---|---|---|---|
| | CAMELS composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Initial Base Assessment Rate | 5 to 18 | 8 to 32 | 18 to 32 | 5 to 32 |
| Unsecured Debt Adjustment [3] | −5 to 0 | −5 to 0 | −5 to 0 | −5 to 0 |
| Brokered Deposit Adjustment | N/A | N/A | N/A | 0 to 10 |
| Total Base Assessment Rate | 2.5 to 18 | 4 to 32 | 13 to 32 | 2.5 to 42 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

[2] All amounts are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

[3] The unsecured debt adjustment cannot exceed the lesser of 5 basis points or 50 percent of an insured depository institution's initial base assessment rate; thus, for example, an insured depository institution with an initial base assessment rate of 5 basis points will have a maximum unsecured debt adjustment of 2.5 basis points and cannot have a total base assessment rate of lower than 2.5 basis points.

The rates applicable to established small institutions and large and highly complex institutions in Tables 1 and 2 above will remain in effect unless and until the reserve ratio meets or exceeds 2 percent. In lieu of dividends, and pursuant to the FDIC's authority to set assessments, progressively lower initial and total base assessment rate schedules applicable to established small institutions and large and highly complex institutions as currently set forth in 12 CFR 327.10(c) and (d) will come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment period reaches 2 percent and 2.5 percent, respectively. The FDIC did not propose and is not adopting changes to these progressively lower assessment rate schedules.

Assessment Rates for New Small Institutions Beginning the First Assessment Period of 2023

Pursuant to the FDIC's authority to set assessments, the initial and total base assessment rates applicable to new small institutions set forth in Tables 3 and 4 below will take effect beginning the first quarterly assessment period of 2023. New small institutions will remain subject to the assessment schedules in Tables 3 and 4, even when the reserve ratio reaches 2 percent or 2.5 percent, until they no longer are new depository institutions, consistent with current assessment regulations. As stated in the 2010 NPR describing the long-term comprehensive fund management plan, and adopted in the 2011 Final Rule, the lower assessment rate schedules applicable when the reserve ratio reaches 2 percent and 2.5 percent do not apply to any new depository institutions; these institutions will remain subject to the assessment rates shown below, until they no longer are new depository institutions.[52]

TABLE 3—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023 AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS, APPLICABLE TO NEW SMALL INSTITUTIONS [1]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial Assessment Rate | 9 | 14 | 21 | 32 |

[1] All amounts for all risk categories are in basis points annually.

[51] *See* 12 CFR 327.16(e).

[52] *See* 75 FR 66283 and 76 FR 10686.

TABLE 4—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023 AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS, APPLICABLE TO NEW SMALL INSTITUTIONS [2]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial Assessment Rate | 9 | 14 | 21 | 32 |
| Brokered Deposit Adjustment (added) | N/A | 0 to 10 | 0 to 10 | 0 to 10 |
| Total Base Assessment Rate | 9 | 14 to 24 | 21 to 31 | 32 to 42 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.
[2] All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

Assessment Rates for Insured Branches of Foreign Banks Beginning the First Assessment Period of 2023

Pursuant to the FDIC's authority to set assessments, the initial and total base assessment rates applicable to insured branches of foreign banks set forth in Table 5 below will take effect beginning the first quarterly assessment period of 2023.

TABLE 5—INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE [1] BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT, APPLICABLE TO INSURED BRANCHES OF FOREIGN BANKS [2]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial and Total Assessment Rate | 5 to 9 | 14 | 21 | 32 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.
[2] All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

The rates applicable to insured branches of foreign banks in Table 5 above will remain in effect unless and until the reserve ratio meets or exceeds 2 percent. In lieu of dividends, and pursuant to the FDIC's authority to set assessments, progressively lower initial and total base assessment rate schedules applicable to insured branches of foreign banks as currently set forth in 12 CFR 327.10(e)(2)(ii) and (iii) will come into effect without further action by the Board when the fund reserve ratio at the end of the prior assessment period reaches 2 percent and 2.5 percent, respectively. The FDIC did not propose and is not adopting changes to these progressively lower assessment rate schedules.

*C. Conforming, Technical, and Other Amendments to the Assessment Regulations Conforming Amendments*

The FDIC is adopting conforming amendments in §§ 327.10 and 327.16 of the FDIC's assessment regulations to effectuate the modifications described above. These conforming amendments will ensure that the uniform increase in initial base deposit insurance assessment rate schedules of 2 basis points is properly incorporated into the assessment regulation provisions governing the calculation of an IDI's quarterly deposit insurance assessment. The FDIC is adopting revisions to § 327.10 to reflect the assessment rate schedules that are applicable before and after the effective date of this final rule (*i.e.,* January 1, 2023). The FDIC also is revising the uniform amounts for small banks and insured branches in §§ 327.16(a) and (d), respectively, to reflect the 2 basis point increase. Aside from the revisions to reflect the assessment rate schedules, no additional revisions are required for the regulatory text applicable to large or highly complex banks because the formula in § 327.16(b) used to calculate their quarterly assessment rates incorporates the minimum and maximum initial base assessment rates then in effect.

Technical Amendments

As a technical change, the FDIC is rescinding certain rate schedules in § 327.10 that are no longer in effect. FDIC regulations provided for changes to deposit insurance assessment rates the quarter after the reserve ratio first reached or surpassed 1.15 percent, which occurred in the third quarter of 2016.[53] The FDIC is rescinding the outdated and obsolete provisions of, and revising references to, the superseded assessment rate schedules in its regulations. These changes impose no new requirements on FDIC-supervised institutions.

The FDIC also is rescinding in its entirety § 327.9—Assessment Pricing Methods, as such section is no longer applicable. The relevant section that includes the method for calculating risk-based assessments for all IDIs, particularly established small banks, is now in § 327.16, which was adopted by the Board in a final rule on April 26, 2016. That final rule became applicable the calendar quarter in which the reserve ratio of the DIF reached 1.15 percent, *i.e.,* the third quarter of 2016.[54] The FDIC also will make technical amendments to remove all references to § 327.9.

Other Amendments

Under the final rule, the FDIC is adopting additional amendments to update and conform Appendix A to subpart A of part 327—Method to Derive Pricing Multipliers and Uniform Amount in accordance with the current assessment regulations. Specifically, the FDIC is removing sections I through V,

[53] *See* 76 FR 10672 (Feb. 25, 2011) and 81 FR 32180 (May 20, 2016). In 2016, the FDIC amended its rules to refine the deposit insurance assessment system for established small IDIs (*i.e.,* those small IDIs that have been federally insured for at least five years). The final rule preserved the lower overall range of initial base assessment rates adopted in 2011 pursuant to the long-term fund management plan.

[54] *See* 81 FR 32180 (May 20, 2016).

which were superseded by the 2016 final rule revising the method to calculate risk-based assessment rates for established small IDIs.[55] The FDIC is replacing the current language of sections I through V of Appendix A to subpart A of part 327 with the content of a previously proposed, but inadvertently not adopted, Appendix E—Method to Derive Pricing Multipliers and Uniform Amount. Appendix E was published in the 2016 revised notice of proposed rulemaking refining the deposit insurance assessment system for established small IDIs.[56] Appendix E was inadvertently not included in the final rule.

Under the 2016 final rule, initial base assessment rates for established small banks are calculated by applying statistically derived pricing multipliers to weighted CAMELS components and financial ratios; then adding the products to a uniform amount.[57] The content of Appendix E describes the statistical model on which the revised and current pricing method is based and, accordingly, revises the method to derive the pricing multipliers and uniform amount used to determine the assessment rate schedules currently in effect.[58]

The revisions to Appendix A to subpart A of part 327 will result in: the removal of the superseded language currently in sections I through V; the addition of the language of Appendix E from the 2016 revised notice of proposed rulemaking reflecting the revised and current pricing method; and the retention of the current language (without change) of section VI (Description of Scorecard Measures) that applies to large and highly complex institutions.

*D. Analysis*

In setting assessment rates, the Board is authorized to set assessments for IDIs in such amounts as the Board may determine to be necessary or appropriate.[59] In setting assessment rates, the Board has considered the following factors as required by statute:[60]

(i) The estimated operating expenses of the DIF.

(ii) The estimated case resolution expenses and income of the DIF.

(iii) The projected effects of the payment of assessments on the capital and earnings of IDIs.

(iv) The risk factors and other factors taken into account pursuant to section 7(b)(1) of the FDI Act (12 U.S.C. 1817(b)(1)) under the risk-based assessment system, including the requirement under such section to maintain a risk-based system.[61]

(v) Other factors the Board has determined to be appropriate.

The following summarizes the factors considered in adopting a uniform increase in initial base assessment rate schedules of 2 basis points.

Assessment Revenue Needs

Under the Amended Restoration Plan, the FDIC is monitoring deposit balance trends, potential losses, and other factors that affect the reserve ratio. The most recent semiannual update to the Board was provided on June 21, 2022, with data as of March 31, 2022, and the next semiannual update is anticipated for later this year and is expected to cover data as of September 30, 2022.[62] For purposes of this final rule, the FDIC updated analysis and projections using data as of June 30, 2022. Table 6 shows the components of the reserve ratio for the fourth quarter of 2021 through the second quarter of 2022. In the second quarter of 2022, slight attrition in insured deposits coupled with positive growth in the DIF balance resulted in a 3 basis point increase in the reserve ratio to 1.26 percent as of June 30, 2022.

While assessment revenue was the primary contributor to growth in the DIF, since the beginning of 2021, the weighted average assessment rate for all IDIs has been consistently below the average of 4.0 basis points when the Restoration Plan was first adopted in 2020. The weighted average assessment rate was approximately 3.8 basis points for the assessment period ending June 30, 2022. The DIF has experienced low losses from bank failures, with no banks failing since October 2020. Unrealized losses on available-for-sale securities in the DIF portfolio contributed to a relatively flat DIF balance in the first quarter of 2022 and continued to slow growth in the second quarter. As of June 30, 2022, the DIF balance totaled $124.5 billion, up $1.4 billion from one quarter earlier.

TABLE 6—FUND BALANCE, ESTIMATED INSURED DEPOSITS, AND RESERVE RATIO

[Dollar amounts in billions]

| | 4Q 2021 | 1Q 2022 | 2Q 2022 |
|---|---|---|---|
| Beginning Fund Balance | $121.9 | $123.1 | $123.0 |
| Plus: Net Assessment Revenue | $2.0 | $1.9 | $2.1 |
| Plus: Other Income[a] | ($0.3) | ($1.5) | ($0.3) |
| Less: Loss Provisions | (*) | $0.1 | ($0.1) |
| Less: Operating Expenses | $0.5 | $0.5 | $0.5 |
| Ending Fund Balance[b] | $123.1 | $123.0 | $124.5 |
| Estimated Insured Deposits | $9,745.8 | $9,974.7 | $9,903.8 |
| Q–O–Q Growth in Estimated Insured Deposits | 1.62% | 2.35% | −0.71% |
| Ending Reserve Ratio | 1.26% | 1.23% | 1.26% |

* Absolute value less than $50 million.

[a] Includes interest earned on investments, unrealized gains/losses on available-for-sale securities, realized gains on sale of investments, and all other income, net of expenses.

[b] Components of fund balance changes may not sum to totals due to rounding.

[55] *See* 81 FR 32180 (May 20, 2016).

[56] *See* 81 FR 6153–6155 (Feb. 4, 2016).

[57] *See* 81 FR 32181.

[58] *See* 81 FR 32191; *see also* 81 FR 6116–17 (Feb. 4, 2016). Note, subsequent to the adoption of the 2016 final rule, the FDIC made other conforming and technical amendments to the assessment regulations at 12 CFR part 327 resulting from other rulemakings. The content of Appendix E does not need to be updated to reflect such conforming and other technical amendments and will be incorporated into the current Appendix A without change. *See* 83 FR 14565 (Apr. 5, 2018), 84 FR 1346 (Feb. 4, 2019), and 85 FR 71227 (Nov. 9, 2020).

[59] 12 U.S.C. 1817(b)(2)(A).

[60] *See* Section 7(b)(2)(B) of the FDI Act, 12 U.S.C. 1817(b)(2)(B).

[61] The risk factors referred to in factor (iv) include the probability that the Deposit Insurance Fund will incur a loss with respect to the institution, the likely amount of any such loss, and the revenue needs of the Deposit Insurance Fund. *See* Section 7(b)(1)(C) of the FDI Act, 12 U.S.C. 1817(b)(1)(C).

[62] *See* FDIC Restoration Plan Semiannual Update, June 21, 2022. Available at *https://www.fdic.gov/news/board-matters/2022/2022-06-21-notice-sum-b-mem.pdf.*

While insured deposit growth showed signs of normalizing in the second quarter, aggregate balances remain significantly elevated, relative to pre-pandemic levels. Insured deposits increased by 4.3 percent over the last year, a growth rate that is higher than the rate of insured deposit growth assumed in both scenarios in the analysis supporting the proposal and this final rule. In recognition that sustained elevated insured deposit balances, lower than anticipated weighted average assessment rates, and other factors have affected the ability of the reserve ratio to return to 1.35 percent before September 30, 2028, and to accelerate the timeline for achieving the long-term goal of a 2 percent DRR, the FDIC is adopting a final rule to increase initial base deposit insurance assessment rate schedules uniformly by 2 basis points. The new assessment rate schedules will remain in effect unless and until the reserve ratio meets or exceeds 2 percent.

Deposit Balance Trends

The recent moderation in insured deposit growth rates relative to the first half of 2020 and the first quarter of 2021, and as described above in the *Response to Comments Received on the Proposed Rule* section, was attributable in part to a decline in personal savings as support from direct federal government stimulus programs ended and higher inflation increased nominal consumer spending. In addition, higher interest rates may have caused certain types of deposits to shift into higher-yielding alternatives. Over the last year, insured deposits increased by 4.3 percent, slightly below the pre-pandemic average of 4.5 percent, but in excess of the insured deposit growth rates assumed in both scenarios in the analysis supporting the proposal and this final rule. While recent insured deposit growth rates more closely align with historical averages, these growth rates are applied to a total balance of insured deposits that is still elevated from the pandemic response efforts, further increasing insured deposit balances.

The outlook for insured deposit growth remains uncertain and depends on several factors, including the outlook for consumer spending and incomes. Any unexpected economic weakness or concerns about slower than expected economic growth may cause businesses and consumers to maintain caution in spending and keep deposit levels elevated in order to have the ability to cover expenses on hand or increase precautionary savings. Similarly, unexpected financial market stress could prompt another round of investor risk aversion that could lead to caution on spending and increase savings and insured deposits. On the other hand, prolonged higher inflation may cause consumer spending to remain elevated as consumers pay more for goods and services.

In contrast, tighter monetary policy may inhibit growth of insured deposits in the banking system. Despite the recent increases in the short-term benchmark rate set by the Federal Reserve, most IDIs have little incentive to raise interest rates on deposit accounts and spur deposit growth in the near-term, given the still elevated levels of deposit balances. If competition for deposits remains subdued and rates paid on deposit accounts remain low, depositors may shift balances away from deposit accounts and into higher-yielding alternatives, including money market funds.

More than a year has passed since the period of extraordinary growth in insured deposits prompted by the last round of fiscal stimulus, and while the banking industry reported slight attrition in insured deposits in the second quarter of 2022, aggregate balances remain significantly elevated, as noted above. Insured deposits declined by 0.7 percent in the second quarter of 2022. While this may be indicative of the beginning of slower growth in insured deposits going forward, a decline in the second quarter is consistent with seasonal, quarterly growth in insured deposits, which have declined in the second quarter in six out of the last nine years. As a result, the reserve ratio continues to be below the statutory minimum of 1.35 percent and is at risk of not returning to that level by the statutory deadline of September 30, 2028. The FDIC will continue to closely monitor depositor behavior and the effects on insured deposits through future Restoration Plan semiannual updates.

Case Resolution Expenses (Insurance Fund Losses)

Losses from past and future bank failures affect the reserve ratio by lowering the fund balance. In recent years, the DIF has experienced low losses from IDI failures. On average, four IDIs per year failed between 2016 and 2021, at an average annual cost to the fund of about $208 million.[63] No banks have failed thus far in 2022, marking 23 consecutive months without a bank failure and the eighth year in a row with few or no failures. Based on currently available information about banks expected to fail in the near-term; analyses of longer-term prospects for troubled banks; and trends in CAMELS ratings, failure rates, and loss rates; the FDIC projects that failures over the next five years would cost the fund approximately $1.8 billion.

The total number of institutions on the FDIC's Problem Bank List was 40 at the end of the second quarter of 2022, the lowest level since publication of the FDIC's Quarterly Banking Profile began in 1984.[64] Currently, the FDIC expects the number of problem banks to remain at low levels in the near-term.

The banking industry faces significant downside risks. Future economic and banking conditions remain uncertain due to high inflation, rising interest rates, slowing economic growth, and geopolitical uncertainty. Higher interest rates may also erode real estate and other asset values as well as hamper borrowers' loan repayment ability. Any of these uncertainties could present challenges and could have longer-term effects on the condition and performance of the economy and the banking industry.

Gross domestic product (GDP) growth has weakened in the first half of 2022, contracting in both first and second quarters after expanding 5.7 percent in 2021. Despite the slowdown in growth in the first half of 2022, consumer spending continued to grow, and the labor market remained strong.

However, the economic outlook is weak overall. The September Blue Chip Economic Forecast calls for GDP growth of 1.2 percent in third quarter, 1.6 percent for full year 2022 and 0.6 percent for 2023.[65] Many forecasters increased their odds of a mild recession occurring in 2022 or 2023.[66]

The banking industry remained resilient through the second quarter of 2022 despite the extraordinary challenges of the pandemic, and is well positioned to absorb a modest increase in assessment rate schedules of 2 basis points. Given these economic uncertainties, in the FDIC's view, now is a reasonable time to modestly raise rates while the banking industry is strong, rather than to delay and potentially have to consider a larger increase in assessments at a later time

[63] FDIC, Annual Report 2021, Assets and Deposits of Failed or Assisted Insured Institutions and Losses to the Deposit Insurance Fund, 1934–2021, page 190, available at *https://www.fdic.gov/about/financial-reports/reports/2021annualreport/2021-arfinal.pdf.*

[64] ''Problem'' institutions are institutions with a CAMELS composite rating of ''4'' or ''5'' due to financial, operational, or managerial weaknesses that threaten their continued financial viability.

[65] September Blue Chip Economic Forecast.

[66] September Blue Chip Economic Forecast.

when banking and economic conditions may be less favorable.

Operating Expenses and Investment Income

FDIC operating expenses remain steady, while a prolonged period of low investment returns has limited growth in the DIF.

Operating expenses partially offset increases in the DIF balance. Operating expenses have remained steady, ranging between $450 and $475 million per quarter since the Restoration Plan was first adopted in September 2020, and totaling $460 million as of June 30, 2022.

Growth in the fund balance has been limited by a prolonged period of low net investment contributions. Recently, as a result of the rising interest rate environment and market expectations leading up to the rate increases, the DIF has also experienced elevated unrealized losses on securities. Elevated unrealized losses coupled with relatively low interest earned on investments resulted in negative net investment contributions in the fourth quarter of 2021, and the first and second quarters of 2022. Prior to the pandemic between 2015 and 2019, quarterly net investment contributions averaged $322 million, well above the average net investment contributions of $4.5 million from 2020 through mid-2022. Unrealized losses were due to rising yields as market participants reacted to expectations of increased inflation and tighter monetary policy. Moving into the third quarter of 2022, interest rates have continued to rise and continued unrealized losses could temper fund balance growth. Future market movements may temporarily increase unrealized losses to the extent that market participants have not already priced in these actions or the Federal Reserve take more aggressive action than is currently expected in fighting inflation. While the FDIC expects that these unrealized losses should eventually be outpaced by higher levels of interest income over the longer-term as future cash proceeds are reinvested at higher rates, the timing of this is uncertain.

Projections for the Fund Balance and Reserve Ratio

In its consideration of increasing the assessment rate schedules, the FDIC sought to increase the likelihood that the reserve ratio would reach the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028, and to support growth in the DIF in progressing toward the long-term goal of a 2 percent DRR. With these objectives in mind, the FDIC updated its analysis and projections for the fund balance and reserve ratio using data through June 30, 2022, the latest available as of the date of publication, to estimate how changes in insured deposit growth and assessment rates affect when the reserve ratio would reach the statutory minimum of 1.35 percent and the DRR of 2 percent.

Based on this analysis, the FDIC continues to project that, absent an increase in assessment rates, the reserve ratio is at risk of not reaching the statutory minimum of 1.35 percent by the statutory deadline of September 30, 2028. In estimating how soon the reserve ratio would reach 1.35 percent, the FDIC developed two scenarios that assume different levels of insured deposit growth and average assessment rates, both of which the FDIC views as reasonable based on current and historical data. For insured deposit growth, the FDIC assumed annual growth rates of 4.0 percent and 3.5 percent, respectively. Even with the second quarter decline in insured deposits, annual insured deposit growth was 4.3 percent, exceeding both growth rates assumed in the analysis.

These insured deposit growth rates represent a retention of a range of excess insured deposits resulting from the pandemic. The assumption of a 4.0 percent annual growth rate reflects retention of all of the estimated $1.13 trillion of excess deposits in insured accounts, with this amount not contributing to further growth, while the remaining balance of insured deposits continues to grow at the pre-pandemic average annual rate of 4.5 percent.[67] Alternatively, a 3.5 percent annual growth rate assumption reflects banks retaining nearly two-thirds of the estimated excess insured deposits resulting from the pandemic, with this amount not contributing to further growth, while the remaining balance of insured deposits grows at the pre-pandemic average annual rate of 4.5 percent.

The two scenarios also apply different assumptions for average annual assessment rates. The weighted average assessment rate for all banks during 2019, prior to the pandemic, was about 3.5 basis points and rose to 4.0 basis points, on average, during 2020. The weighted average assessment rate for all IDIs was approximately 3.8 basis points for the assessment period ending June 30, 2022. For the scenario in which all excess insured deposits are retained, the FDIC assumed a lower assessment rate of 3.5 basis points, and for the scenario in which some excess insured deposits recede, the FDIC assumed an assessment rate of 4.0 basis points.

In finalizing the increase in the assessment rate schedules, the FDIC updated projections of the date that the reserve ratio would likely reach the statutory minimum of 1.35 percent in each scenario, shown in Table 7 below to include one additional quarter of data finalized following the publication of the proposed rule.[68] Under Scenario A, which assumes annual insured deposit growth of 4.0 percent and an average annual assessment rate of 3.5 basis points, the FDIC projects that the reserve ratio would reach 1.35 percent in the second quarter of 2034, after the statutory deadline of September 30, 2028.

[67] The estimate of $1.13 trillion of excess insured deposits reflects the amount of insured deposits as of September 30, 2021, in excess of the amount that would have resulted if insured deposits had grown at the pre-pandemic average rate of 4.5 percent since December 31, 2019.

[68] For simplicity, the analysis shown in Table 7 assumes that: (1) the assessment base grows 4.5 percent, annually; (2) net investment contributions to the deposit insurance fund balance are zero; (3) operating expenses grow at 1 percent per year; and (4) failures for the five-year period from 2022 to 2026 would cost approximately $1.8 billion.

TABLE 7—SCENARIO ANALYSIS: EXPECTED TIME TO REACH A 1.35 PERCENT RESERVE RATIO

| | Annual insured deposit growth rate [percent] | Average annual assessment rate [basis points] | Date the reserve ratio reaches 1.35 percent | |
|---|---|---|---|---|
| | | | No change in annual average assessment rate | Application of 2 BPS increase in annual average assessment rate (beginning 1Q 2023) |
| Scenario A | 4.0 | 3.5 | 2Q 2034 | 4Q 2024 |
| Scenario B | 3.5 | 4.0 | 4Q 2026 | 2Q 2024 |

In Scenario B, which assumed annual insured deposit growth of 3.5 percent and an average annual assessment rate of 4.0 basis points, the FDIC projects that the reserve ratio would reach 1.35 percent in the fourth quarter of 2026, only seven quarters before the statutory deadline. Even under these relatively favorable conditions, which assume lower insured deposit growth and a higher average assessment rate than experienced over the last year, the reserve ratio reaches the statutory minimum of 1.35 percent relatively close to the statutory deadline. While the FDIC projects that the reserve ratio would reach the statutory minimum before the deadline in this scenario, any number of uncertain factors—including unexpected losses, accelerated insured deposit growth, or lower weighted average assessment rates due to improving risk profiles of institutions—could materialize between now and the fourth quarter of 2026, and prevent the reserve ratio from reaching the statutory minimum by the statutory deadline. Updating the analysis incorporated in the proposal to include the latest data available, as of June 30, 2022, had minimal effect on the date the reserve ratio reaches 1.35 percent. Updated analysis reflecting a decline in insured deposits of 0.7 percent resulted in the reserve ratio projections reaching 1.35 percent one quarter earlier under Scenario A, and 2 quarters earlier under Scenario B.

Both scenarios apply assumptions for insured deposit growth and average assessment rates that the FDIC views as reasonable based on current and historical data, and that do not widely differ from each other in magnitude. Actual insured deposit growth and assessment rates could more closely align with one scenario or the other, exceed or fall short of assumptions, or fall in between the two. As described above in the *Response to Comments Received on the Proposed Rule* and *Case Resolution Expenses (Insurance Fund Losses)* sections, the assumptions, including assumptions related to net investment contributions and losses to the DIF, are subject to uncertainty. If insured deposits grow at a slower rate than assumed, the statutory minimum reserve ratio would be achieved sooner than projected. On the other hand, if insured deposits grow at a faster rate, average assessment rates decline, or losses materialize, the statutory minimum reserve ratio would be achieved later than projected.

Net investment contributions—defined for purposes of this final rule to include both interest income and unrealized gains or losses—have played a secondary role relative to assessment revenue in overall DIF growth. Elevated unrealized losses resulted in negative net investment contributions of $339 million in the fourth quarter of 2021, and $1,495 million and $322 million in the first and second quarters of 2022, respectively. Moving into the third quarter of 2022, interest rates have continued to rise and unrealized losses will likely continue to reduce net investment contributions, below the assumed amount of zero. When rates stabilize and interest income begins to outpace unrealized losses on the DIF portfolio, the positive net investment contributions would help grow the DIF and may accelerate achievement of the statutory minimum reserve ratio to some extent. On the other hand, as long as elevated unrealized losses persist and continue to result in negative net investment contributions, the statutory minimum reserve ratio may be achieved later than projected.

While net investment contributions have been relatively flat to slightly negative since the Restoration Plan was first established in September 2020, interest rate increases have gradually lifted interest income on the DIF portfolio in recent months and over time unrealized losses should eventually be outpaced by higher levels of interest income. However, given the uncertainty of the timing and magnitude of interest rate increases and the effects on the DIF portfolio, it is the FDIC's view that zero net investment contributions remains a reasonably conservative assumption over the near-term. In the longer-term, projections for reaching the 2 percent DRR already assume positive net investment contributions after the reserve ratio reaches 1.35 percent, based on market-implied forward rates, and including additional net investment contributions in the near-term had little effect on the analysis for reaching the 2 percent DRR.[69] When rates stabilize and interest income begins to outpace unrealized losses on the DIF portfolio, resulting in positive net investment contributions, the FDIC will consider revisiting assumptions in future semiannual updates accordingly.

The FDIC recognizes that relatively minor changes in the underlying assumptions result in considerably different outcomes, as the reserve ratio is projected to reach the statutory minimum of 1.35 percent in 2034 in Scenario A, compared to 8 years earlier in Scenario B. The disparity between outcomes under these scenarios demonstrates the sensitivity of the projections to slight variations in any key variable and the need to adopt an increase in assessment rate schedules now in order to generate a buffer to absorb unexpected losses, accelerated insured deposit growth, or lower average assessment rates.

Given these uncertainties, the FDIC also updated projections of the DIF balance and associated reserve ratio under each scenario, applying the 2 basis point increase in average assessment rates beginning in the first assessment period of 2023. Updated projections indicate that the increase of 2 basis points would improve the likelihood that the reserve ratio will reach the statutory minimum ahead of

[69] Projections for reaching the 2 percent DRR assume net investment contributions to the DIF portfolio of zero until the reserve ratio reaches 1.35 percent. Net investment contributions assumptions are then based on market-implied forward rates from that point forward. Applying this assumption for the entire projection period does not significantly accelerate the achievement of a 2 percent DRR (the reserve ratio would reach 2 percent in 2031 instead of 2032).

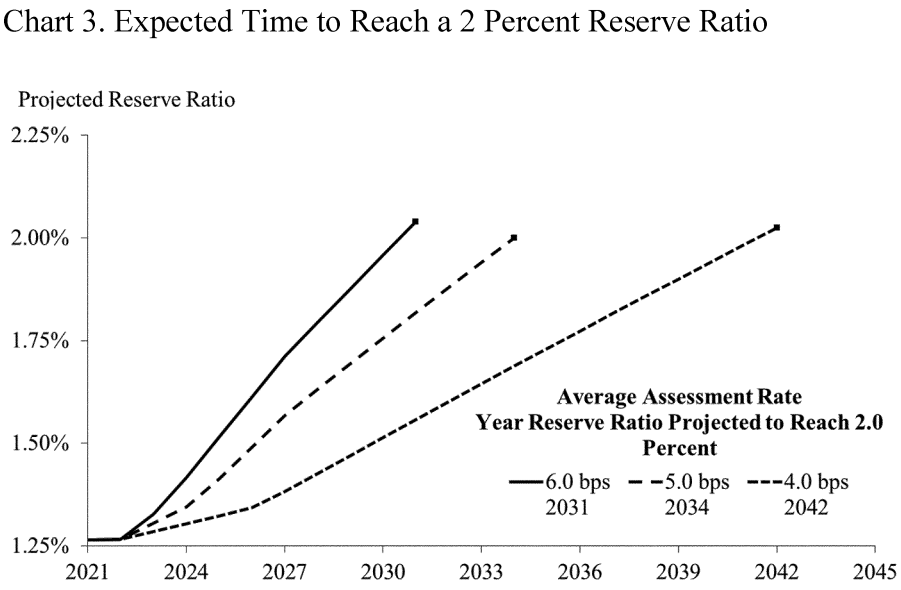
the statutory deadline, building in a buffer in the event of uncertainties as described above that could stall or counter growth in the reserve ratio. Under both scenarios described above, an increase in assessment rates of 2 basis points is projected to result in the reserve ratio reaching the statutory minimum of 1.35 percent approximately two years from now. Updating the analysis incorporated in the proposal to include the latest data available, as of June 30, 2022, despite the 0.7 percent decline in insured deposits, had minimal effect on the date the reserve ratio reaches 1.35 percent after applying the 2 basis point increase.

Once the DIF reaches 1.35 percent, the FDIC will no longer operate under a restoration plan. Any subsequent decline in the reserve ratio below the statutory minimum would, therefore, require the Board to establish a new restoration plan with an additional eight years to restore the reserve ratio. Alternatively, in the event that the industry experiences a downturn before the FDIC has exited its current Restoration Plan, the FDIC might have to consider larger assessment increases to meet the statutory requirement in a more compressed timeframe and under less favorable conditions.

The FDIC also updated analysis of the effects of the increase in the assessment rate schedules in supporting growth in the DIF in progressing toward the 2 percent DRR to include data from June 30, 2022. For this analysis, the FDIC assumed a near-term annual insured deposit growth rate of 3.5 percent and a weighted average assessment rate of 4.0 basis points.[70] These assumptions reflect the ranges of insured deposit growth and assessment rates used in Scenario B, described above, and result in the shortest projected timeline to reach a 2 percent reserve ratio. As illustrated in Chart 3, even under these relatively favorable conditions, absent an increase in assessment rates, the projected reserve ratio would not reach 2 percent until 2042, about twenty years from now.[71] When the FDIC proposed the long-term, comprehensive fund management plan in 2010, it estimated that the reserve ratio would reach 2 percent in 2027.[72]

Using the same assumptions, an increase in assessment rates would significantly accelerate the timeline for achieving a 2 percent DRR. An increase in assessment rates of 2 basis points would accelerate the timeline by 11 years, to 2031.

Chart 3. Expected Time to Reach a 2 Percent Reserve Ratio




The 2 basis point increase in assessment rates brings the average assessment rate of 3.8 basis points, as of June 30, 2022, close to the moderate steady assessment rate that would have been required to maintain a positive DIF balance from 1950 to 2010, and identified as part of the long-term, comprehensive fund management plan in 2011.[73] Upon achieving the 2 percent DRR, progressively lower assessment rate schedules will take effect. The 2 basis point increase accelerates the timeline for achieving the 2 percent DRR, reduces the likelihood that the FDIC would need to consider a potentially pro-cyclical assessment rate increase, and increases the likelihood of the DIF remaining positive through potential future periods of significant losses due to bank failures, consistent with the FDIC's long-term fund management plan.

## Capital and Earnings Analysis and Expected Effects

This analysis estimates the effect on the capital and earnings of IDIs of the uniform increase in initial base assessment rate schedules of 2 basis points. For this analysis, data as of June 30, 2022, are used to calculate each bank's assessment base and risk-based assessment rate, absent the increase in assessment rates. The base and rate are

[70] After September 30, 2028, the deadline to restore the reserve ratio to the 1.35 percent minimum, insured deposits are assumed to grow at the pre-pandemic annual average of 4.5 percent.

[71] The analysis shown in Chart 3 is based on the assumptions used in Scenario B through the projected quarter that the reserve ratio meets or exceeds 1.35 percent. Afterward, the analysis assumes: (1) net investment contributions to the fund based on market-implied forward rates; (2) the assessment base grows 4.5 percent, annually; (3) operating expenses grow at 1 percent per year; and (4) failures for the five-year period from 2022 to 2026 cost approximately $1.8 billion, with a low level of losses each year thereafter. The uniform increase in assessment rates of 1 or 2 basis points from the current rate schedule is assumed to take effect on January 1, 2023.

[72] *See* 75 FR 66281.

[73] *See* 75 FR 66273 and 76 FR 10675.

assumed to remain constant throughout the one-year projection period.[74]

The analysis assumes that pre-tax income for the four quarters beginning on the effective date of the rate increase, January 1, 2023, is equal to income reported from July 1, 2021, through June 30, 2022, adjusted for mergers. The analysis also assumes that the effects of changes in assessments are not transferred to customers in the form of changes in borrowing rates, deposit rates, or service fees. Since deposit insurance assessments are a tax-deductible operating expense for some institutions, increases in the assessment expense can lower taxable income.[75] Therefore, the analysis considers the effective after-tax cost of assessments in calculating the effect on capital.[76]

An institution's earnings retention and dividend policies influence the extent to which assessments affect equity levels. If an institution maintains the same dollar amount of dividends when it pays a higher deposit insurance assessment under the final rule, equity (retained earnings) will be less by the full amount of the after-tax cost of the increase in the assessment. This analysis instead assumes that an institution will maintain its dividend rate (that is, dividends as a fraction of net income) unchanged from the weighted average rate reported over the four quarters ending June 30, 2022. In the event that the ratio of equity to assets falls below 4 percent, however, this assumption is modified such that an institution retains the amount necessary to reach a 4 percent minimum and distributes any remaining funds according to the dividend payout rate.[77]

The FDIC estimates that a uniform increase in initial base assessment rate schedules of 2 basis points would contribute approximately $4.4 billion in annual assessment revenue in 2023.[78] Given the assumptions in the analysis, for the industry as a whole, the FDIC estimates that, on average, a uniform increase in assessment rates of 2 basis points would decrease Tier 1 capital by an estimated 0.1 percent. The increase in assessment rates is estimated to cause no banks whose ratio of equity to assets would have equaled or exceeded 4 percent under the current assessment rate schedule to fall below that percentage (becoming undercapitalized), and no banks whose ratio of equity to assets would have exceeded 2 percent under the current rate schedule to fall below that percentage, becoming critically undercapitalized.

The banking industry has reported strong earnings in recent quarters. In the second quarter of 2022, banks saw a rise in net income over the prior quarter due to growth in net interest income, which resulted from a combination of loan growth and rising interest rates. The net interest margin for the industry increased from the prior quarter by 26 basis points and from the year-ago quarter by 29 basis points to 2.80 percent. The average return-on-assets ratio (ROA) of 1.08 increased 7 basis points from the prior quarter, but is down from a decade-high of 1.38 percent in first quarter 2021. The banking industry remained resilient through the second quarter of 2022 despite the extraordinary challenges of the pandemic, and is well positioned to absorb a modest increase in assessment rate schedules of 2 basis points.

The effect of the change in assessments on an institution's income is measured by the change in deposit insurance assessments as a percent of income before assessments and taxes (hereafter referred to as ''income''). This income measure is used in order to eliminate the potentially transitory effects of taxes on profitability. The FDIC analyzed the impact of assessment changes on institutions that were profitable in the period covering the 12 months before June 30, 2022.

Given the assumptions in the analysis, for the industry as a whole, the FDIC estimates that the annual increase in assessments will reduce income slightly by an average of 1.2 percent, which includes an average of 1.0 percent for small banks and an average of 1.3 percent for large and highly complex institutions.[79]

Table 8 shows that approximately 96 percent of profitable institutions are projected to have an increase in assessments of less than 5 percent of income. Another 4 percent of profitable institutions are projected to have an increase in assessments equal to or exceeding 5 percent of income.

TABLE 8—ESTIMATED ANNUAL EFFECT OF THE ASSESSMENT RATE INCREASE ON INCOME FOR ALL PROFITABLE INSTITUTIONS [1]

| Change in assessments as percent of income | Number of institutions | Percent of institutions | Assets of institutions [$ billions] | Percent of assets |
|---|---|---|---|---|
| Over 30% | 9 | <1 | 6 | <1 |
| 20% to 30% | 8 | <1 | 11 | <1 |
| 10% to 20% | 46 | 1 | 48 | <1 |
| 5% to 10% | 138 | 3 | 27 | <1 |
| Less than 5% | 4,373 | 96 | 23,471 | 100 |
| No Change | 1 | <1 | <1 | <1 |

[74] All income statement items used in this analysis were adjusted for the effect of mergers. Institutions for which four quarters of non-zero earnings data were unavailable, including insured branches of foreign banks, were excluded from this analysis.

[75] The Tax Cuts and Jobs Act of 2017 placed a limitation on tax deductions for FDIC premiums for banks with total consolidated assets between $10 and $50 billion and disallowed the deduction entirely for banks with total assets of $50 billion or more. *See* the Tax Cuts and Jobs Act, Public Law 115–97 (Dec. 22, 2017).

[76] The analysis does not incorporate any tax effects from an operating loss carry forward or carry back.

[77] The analysis uses 4 percent as the threshold because IDIs generally need to maintain a leverage ratio of 4.0 percent or greater to be considered ''adequately capitalized'' under Prompt Corrective Action Standards, in addition to the following requirements: (i) total risk-based capital ratio of 8.0 percent or greater; (ii) Tier 1 risk-based capital ratio of 6.0 percent or greater; (iii) common equity tier 1 capital ratio of 4.5 percent or greater; and (iv) does not meet the definition of ''well capitalized.'' Beginning January 1, 2018, an advanced approaches or Category III FDIC-supervised institution will be deemed to be ''adequately capitalized'' if it satisfies the above criteria and has a supplementary leverage ratio of 3.0 percent or greater, as calculated in accordance with 12 CFR 324.10. *See* 12 CFR 324.403(b)(2). For purposes of this analysis, equity to assets is used as the measure of capital adequacy.

[78] Estimates and projections are based on the assumptions used in Scenario B.

[79] Earnings or income are annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022.

TABLE 8—ESTIMATED ANNUAL EFFECT OF THE ASSESSMENT RATE INCREASE ON INCOME FOR ALL PROFITABLE INSTITUTIONS [1]—Continued

| Change in assessments as percent of income | Number of institutions | Percent of institutions | Assets of institutions [$ billions] | Percent of assets |
|---|---|---|---|---|
| Total | 4,575 | 100 | 23,563 | 100 |

[1] Income is defined as annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022, adjusted for mergers. Profitable institutions are defined as those having positive merger-adjusted income for the 12 months ending June 30, 2022. Excludes 9 insured branches of foreign banks and 7 institutions reporting fewer than 4 quarters of reported earnings. Some columns do not add to total due to rounding.

Among profitable small institutions, 95 percent are projected to have an increase in assessments of less than 5 percent of income, as shown in Table 9. The remaining 5 percent of profitable small institutions are projected to have an increase in assessments equal to or exceeding 5 percent of income. As shown in Table 10, 99 percent of profitable large and highly complex institutions are projected to have an increase in assessments below 5 percent of income.

TABLE 9—ESTIMATED ANNUAL EFFECT OF THE ASSESSMENT RATE INCREASE ON INCOME FOR PROFITABLE SMALL INSTITUTIONS [1]

| Change in assessments as percent of income | Number of institutions | Percent of institutions | Assets of institutions [$ billions] | Percent of assets |
|---|---|---|---|---|
| Over 30% | 9 | <1 | 6 | <1 |
| 20% to 30% | 8 | <1 | 11 | <1 |
| 10% to 20% | 45 | 1 | 7 | <1 |
| 5% to 10% | 138 | 3 | 27 | 1 |
| Less than 5% | 4,231 | 95 | 3,445 | 99 |
| No Change | 1 | <1 | <1 | <1 |
| Total | 4,432 | 100 | 3,495 | 100 |

[1] Income is defined as annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022, adjusted for mergers. Profitable institutions are defined as those having positive merger-adjusted income for the 12 months ending June 30, 2022. Some columns do not add to total due to rounding. For assessment purposes, a small institution is generally defined as an institution with less than $10 billion in total assets.

TABLE 10—ESTIMATED ANNUAL EFFECT OF THE ASSESSMENT RATE INCREASE ON INCOME FOR PROFITABLE LARGE AND HIGHLY COMPLEX INSTITUTIONS [1]

| Change in assessments as percent of income | Number of institutions | Percent of institutions | Assets of institutions ($ billions) | Percent of assets |
|---|---|---|---|---|
| Over 30% | 0 | 0 | 0 | 0 |
| 20% to 30% | 0 | 0 | 0 | 0 |
| 10% to 20% | 1 | 1 | 41 | <1 |
| 5% to 10% | 0 | 0 | 0 | 0 |
| Less than 5% | 142 | 99 | 20,027 | 100 |
| No Change | 0 | 0 | 0 | 0 |
| Total | 143 | 100 | 20,068 | 100 |

[1] Income is defined as annual income before assessments and taxes. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022, adjusted for mergers. Profitable institutions are defined as those having positive merger-adjusted income for the 12 months ending June 30, 2022. Some columns do not add to total due to rounding. For assessment purposes, a large bank is generally defined as an institution with $10 billion or more in total assets, and a highly complex bank is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company.

Strengthening the DIF

As discussed above, the increase in assessment rate schedules is projected to have an insignificant effect on institutions' capital levels and is unlikely to have a material effect relative to income for almost all institutions. However, the resulting increase in assessment revenue, combined across all institutions, is projected to grow the DIF by over $4 billion a year. This growth will strengthen the DIF's ability to withstand potential future periods of significant losses due to bank failures and reduce the likelihood that the FDIC would need to increase assessment rates during a future banking crisis. Accelerating the time in which the reserve ratio will reach the statutory minimum of 1.35 percent and the DRR of 2 percent will allow the banking industry to remain a source of strength for the economy during a potential future downturn and will continue to ensure public confidence in federal deposit insurance.

*E. Alternatives Considered*

The FDIC has considered the reasonable and possible alternatives to meet the requirement that the reserve ratio reach the statutory minimum by

the statutory deadline, but believes, on balance, that an increase in assessment rate schedules of 2 basis points is the most appropriate and most straightforward manner in which to achieve the objectives of the Amended Restoration Plan and the long-term fund management plan.

Alternative 1: Maintain Current Assessment Rate Schedule

The first alternative the FDIC considered is to maintain the current schedule of assessment rates. As described above, the FDIC projected that the reserve ratio would reach the statutory minimum of 1.35 percent in the second quarter of 2034, after the statutory deadline under Scenario A, which assumes annual insured deposit growth of 4.0 percent and an average annual assessment rate of 3.5 basis points. Under Scenario B, which assumes insured deposit growth of 3.5 percent and an average assessment rate of 4.0 basis points, the FDIC projected that the reserve ratio would reach the statutory minimum of 1.35 percent in the fourth quarter of 2026.

As described above, the FDIC rejected maintaining the current schedule of assessment rates. Absent an increase in assessment rates, under Scenario A, growth in the DIF would not be sufficient for the reserve ratio to reach the statutory minimum of 1.35 percent ahead of the required deadline. While the reserve ratio would reach the statutory minimum ahead of the required deadline under Scenario B, growth in the fund resulting from current assessment rates could be offset if unexpected losses materialize, insured deposit growth accelerates, or risk profiles of institutions improve, resulting in lower assessment rates.

Additionally, relative to the other alternatives and the increase in assessment rate schedules of 2 basis points, maintaining the current schedule of assessment rates would not result in any acceleration of growth in the DIF in progressing toward the FDIC's long-term goal of a 2 percent DRR. Absent an increase in assessment rates and assuming annual insured deposit growth of 3.5 percent and a weighted average assessment rate of 4.0 basis points, the FDIC projected that the reserve ratio would achieve the 2 percent DRR in 2042, eleven years later than if the FDIC were to apply an increase in assessment rate schedules of 2 basis points beginning in 2023.

Alternative 2: Increase in Assessment Rates of 1 Basis Point

A second alternative the FDIC considered is to increase initial base assessment rate schedules uniformly by 1 basis point. The FDIC projected that a 1 basis point increase in the average assessment rate would result in the reserve ratio reaching the statutory minimum in the second quarter of 2026 under Scenario A and in the fourth quarter of 2024 under Scenario B.

The FDIC rejected this alternative in favor of a 2 basis point increase in assessment rate schedules. Reaching the statutory minimum reserve ratio in 2026, as projected under Scenario A, would be very close to the statutory deadline and could result in the FDIC having to consider higher assessment rates in the face of a future downturn or industry stress. While a 1 basis point increase under Scenario B is projected to result in the reserve ratio reaching 1.35 percent in the fourth quarter of 2024, the increase in associated assessment revenue would generate a smaller buffer to absorb unexpected losses, accelerated insured deposit growth, or lower average assessment rates that could materialize over this period.

Additionally, the FDIC projected that a 1 basis point increase in assessment rate schedules would result in the reserve ratio achieving the 2 percent DRR in approximately 2034, about 3 years later than if the FDIC were to apply an increase in assessment rate schedules of 2 basis points beginning in 2023.

Alternative 3: One-Time Special Assessment of 4.5 Basis Points

A third alternative would be to impose a one-time special assessment of 4.5 basis points, applicable to the assessment base of all IDIs. Utilizing data as of June 30, 2022, and assuming an effective date of January 1, 2023, the FDIC estimated that a one-time special assessment of 4.5 basis points would contribute approximately $9.7 billion in annual assessment revenue and the reserve ratio would reach 1.35 percent the quarter following the effective date (*i.e.,* the second assessment period of 2023).[80] Accordingly, the FDIC estimated that, on average, a one-time special assessment of 4.5 basis points would decrease Tier 1 capital by an estimated 0.5 percent and reduce the annual earnings of IDIs by approximately 2.8 percent, in aggregate.[81]

While a one-time special assessment of 4.5 basis points is projected to increase the DIF reserve ratio to 1.35 percent the most quickly and precisely, and would significantly mitigate the potential that the FDIC would need to consider a pro-cyclical increase in assessment rates, it is estimated to result in a quarterly assessment expense that is more than eight times greater than the proposal. Additionally, while the reserve ratio is projected to be restored to 1.35 percent immediately under this alternative, the risk would remain that it could fall back below the statutory minimum shortly thereafter if a sufficient cushion is not built in. This would result in the establishment of a new restoration plan. Further, a one-time special assessment would not meaningfully accelerate the timeline for achieving the 2 percent DRR.

In the FDIC's view, an increase in assessment rate schedules of 2 basis points appropriately balances several considerations, including the goal of reaching the statutory minimum reserve ratio reasonably promptly, strengthening the fund to reduce the risk that the FDIC would need to consider a potentially pro-cyclical assessment increase in the event of a future downturn or industry stress before the statutory deadline, at a time when the banking industry is better positioned to absorb a modest increase in assessment rate schedules, and improving the timeline for achieving a 2 percent DRR to strengthen the fund to withstand potential future banking crises.

A discussion on other alternatives proposed through comments received on the notice of proposed rulemaking is provided above in the section on *Comments on Alternatives.*

## IV. Effective Date of the Final Rule

The FDIC is issuing this final rule with an effective date of January 1, 2023, and applicable beginning the first quarterly assessment period of 2023 (*i.e.,* January 1 through March 31, 2023, with an invoice payment date of June 30, 2023).

## V. Administrative Law Matters

### *A. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment

[80] Estimates and projections related to the one-time special assessment assume that: (1) insured deposit growth is 4 percent annually; (2) the average assessment rate before any rate increase is 3.5 basis points; (3) losses to the DIF from bank failures total $1.8 billion from 2022 to 2026; (4) the assessment base grows 4.5 percent, annually; (5) net investment contributions to the deposit insurance fund balance are zero; and (6) operating expenses grow at 1 percent per year.

[81] Earnings or income are annual income before assessments, taxes, and extraordinary items. Annual income is assumed to equal income from July 1, 2021, through June 30, 2022.

a final regulatory flexibility analysis that describes the impact of a final rule on small entities.[82] However, a regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $750 million.[83] Certain types of rules, such as rules of particular applicability relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[84] Because the final rule relates directly to the rates imposed on IDIs for deposit insurance, the final rule is not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

The final rule is expected to affect all FDIC-insured depository institutions. According to recent Call Report data, there are currently 4,780 IDIs holding approximately $24 trillion in assets.[85] Of these, approximately 3,394 IDIs would be considered small entities for the purposes of RFA.[86] These small entities hold approximately $882 billion in assets.

The final rule will increase initial base assessment rate schedules for these small entities by 2 basis points. In aggregate, the total annual amount paid in assessments by small entities will increase by approximately $160 million, from $317 million to $475 million.[87]

At the individual bank level, few institutions will be significantly affected by the final rule. Fewer than 350 small entities will experience annual assessment increases greater than $100,000, and none will experience annual assessment increases greater than $150,000. When compared to the banks' expenses, the annual assessment increases are significant for only a handful of small entities: only five small entities will experience annual assessment increases greater than 2.5 percent of their noninterest expenses, and only two will experience annual assessment increases greater than 5 percent of what they paid in employee salaries and benefits.[88]

The FDIC invited comments regarding the supporting information provided in the RFA section in the proposed rule, but did not receive comments on this topic.

*B. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.[89] The FDIC's OMB control numbers for its assessment regulations are 3064–0057, 3064–0151, and 3064–0179. The final rule does not create any new, or revise any of these existing, assessment information collections pursuant to the PRA; consequently, no information collection request will be made to the OMB for review.

*C. Riegle Community Development and Regulatory Improvement Act*

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[90] In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[91]

The amendments to the FDIC's deposit insurance assessment regulations under this final rule do not impose additional reporting, disclosure, or other new requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. Accordingly, section 302 of RCDRIA does not apply. The FDIC invited comments regarding the application of RCDRIA in the proposed rule, but did not receive comments on this topic. Nevertheless, the requirements of RCDRIA have been considered in setting the final effective date.

*D. Plain Language*

Section 722 of the Gramm-Leach-Bliley Act[92] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. FDIC staff believes the final rule is presented in a simple and straightforward manner. The FDIC invited comment regarding the use of plain language in the proposed rule but did not receive any comments on this topic.

*E. The Congressional Review Act*

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[93]

If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[94]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in: (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or Local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[95]

[82] 5 U.S.C. 601 *et seq.*

[83] The SBA defines a small banking organization as having $750 million or less in assets, where an organization's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year. *See* 13 CFR 121.201 (as amended by 87 FR 18627, effective May 2, 2022). In its determination, the SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates. *See* 13 CFR 121.103. Following these regulations, the FDIC uses a banking organization's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the banking organization is ''small'' for the purposes of RFA.

[84] 5 U.S.C. 601.

[85] Based on Call Report data as of June 30, 2022, the most recent period for which small entities can be identified.

[86] *Id.*

[87] *Id.*

[88] *Id.* For purposes of the RFA, the FDIC generally considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses.

[89] 44 U.S.C. 3501–3521.

[90] 12 U.S.C. 4802(a).

[91] 12 U.S.C. 4802(b).

[92] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

[93] 5 U.S.C. 801 *et seq.*

[94] 5 U.S.C. 801(a)(3).

[95] 5 U.S.C. 804(2).

The OMB has determined that the final rule is a major rule for purposes of the Congressional Review Act. As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

**List of Subjects in 12 CFR Part 327**

Bank deposit insurance, Banks, banking, Savings associations.

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 327 as follows:

## PART 327—ASSESSMENTS

■ 1. The authority for 12 CFR part 327 continues to read as follows:

**Authority:** 12 U.S.C. 1813, 1815, 1817–19, 1821.

■ 2. Amend § 327.4 by revising paragraphs (a) and (c) to read as follows:

**§ 327.4 Assessment rates.**

(a) *Assessment risk assignment.* For the purpose of determining the annual assessment rate for insured depository institutions under § 327.16, each insured depository institution will be provided an assessment risk assignment. Notice of an institution's current assessment risk assignment will be provided to the institution with each quarterly certified statement invoice. Adjusted assessment risk assignments for prior periods may also be provided by the Corporation. Notice of the procedures applicable to reviews will be included with the notice of assessment risk assignment provided pursuant to this paragraph (a).

* * * * *

(c) *Requests for review.* An institution that believes any assessment risk assignment provided by the Corporation pursuant to paragraph (a) of this section is incorrect and seeks to change it must submit a written request for review of that risk assignment. An institution cannot request review through this process of the CAMELS ratings assigned by its primary federal regulator or challenge the appropriateness of any such rating; each federal regulator has established procedures for that purpose. An institution may also request review of a determination by the FDIC to assess the institution as a large, highly complex, or a small institution (§ 327.16(f)(3)) or a determination by the FDIC that the institution is a new institution (§ 327.16(g)(5)). Any request for review must be submitted within 90 days from the date the assessment risk assignment being challenged pursuant to paragraph (a) of this section appears on the institution's quarterly certified statement invoice. The request shall be submitted to the Corporation's Director of the Division of Insurance and Research in Washington, DC, and shall include documentation sufficient to support the change sought by the institution. If additional information is requested by the Corporation, such information shall be provided by the institution within 21 days of the date of the request for additional information. Any institution submitting a timely request for review will receive written notice from the Corporation regarding the outcome of its request. Upon completion of a review, the Director of the Division of Insurance and Research (or designee) or the Director of the Division of Supervision and Consumer Protection (or designee) or any successor divisions, as appropriate, shall promptly notify the institution in writing of his or her determination of whether a change is warranted. If the institution requesting review disagrees with that determination, it may appeal to the FDIC's Assessment Appeals Committee. Notice of the procedures applicable to appeals will be included with the written determination.

* * * * *

■ 3. Amend § 327.8 by revising paragraphs (e)(2), (f), (k)(1) introductory text, and (l) through (p) to read as follows:

**§ 327.8 Definitions.**

* * * * *

(e) * * *

(2) Except as provided in paragraph (e)(3) of this section and § 327.17(e), if, after December 31, 2006, an institution classified as large under paragraph (f) of this section (other than an institution classified as large for purposes of § 327.16(f)) reports assets of less than $10 billion in its quarterly reports of condition for four consecutive quarters, excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as small beginning the following quarter.

* * * * *

(f) *Large institution.* An institution classified as large for purposes of § 327.16(f) or an insured depository institution with assets of $10 billion or more, excluding assets as described in § 327.17(e), as of December 31, 2006 (other than an insured branch of a foreign bank or a highly complex institution) shall be classified as a large institution. If, after December 31, 2006, an institution classified as small under paragraph (e) of this section reports assets of $10 billion or more in its quarterly reports of condition for four consecutive quarters, excluding assets as described in § 327.17(e), the FDIC will reclassify the institution as large beginning the following quarter.

* * * * *

(k) * * *

(1) *Merger or consolidation involving new and established institution(s).* Subject to paragraphs (k)(2) through (5) of this section and § 327.16(g)(3) and (4), when an established institution merges into or consolidates with a new institution, the resulting institution is a new institution unless:

* * * * *

(l) *Risk assignment.* Under § 327.16, for all new small institutions and insured branches of foreign banks, risk assignment includes assignment to Risk Category I, II, III, or IV, and for insured branches of foreign banks within Risk Category I, assignment to an assessment rate or rates. For all established small institutions, and all large institutions and all highly complex institutions, risk assignment includes assignment to an assessment rate.

(m) *Unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), unsecured debt shall include senior unsecured liabilities and subordinated debt.

(n) *Senior unsecured liability.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), senior unsecured liabilities shall be the unsecured portion of other borrowed money as defined in the quarterly report of condition for the reporting period as defined in paragraph (b) of this section.

(o) *Subordinated debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), subordinated debt shall be as defined in the quarterly report of condition for the reporting period; however, subordinated debt shall also include limited-life preferred stock as defined in the quarterly report of condition for the reporting period.

(p) *Long-term unsecured debt.* For purposes of the unsecured debt adjustment as set forth in § 327.16(e)(1) and the depository institution debt adjustment as set forth in § 327.16(e)(2), long-term unsecured debt shall be unsecured debt with at least one year remaining until maturity; however, any such debt where the holder of the debt has a redemption option that is exercisable within one year of the

reporting date shall not be deemed long-term unsecured debt.

* * * * *

**§ 327.9 [Removed and Reserved]**

■ 4. Remove and reserve § 327.9.
■ 5. Amend § 327.10 as follows:
■ a. Remove paragraph (a);
■ b. Redesignate paragraph (b) as paragraph (a) and revise it;
■ c. Add new paragraph (b);
■ d. Remove paragraph (e)(1)(i);
■ e. Redesignate paragraph (e)(1)(ii) as paragraph (e)(1)(i) and revise it;
■ f. Add new paragraph (e)(1)(ii);
■ g. Revise paragraph (e)(1)(iii);
■ h. Add paragraph (e)(1)(iv);
■ i. Revise paragraph (e)(2)(i);
■ j. Redesignate paragraphs (e)(2)(ii) and (iii) as (e)(2)(iii) and (iv), respectively; and
■ k. Add new paragraph (e)(2)(ii).

The revisions and additions read as follows:

**§ 327.10 Assessment rate schedules.**

(a) Assessment rate schedules for established small institutions and large and highly complex institutions applicable in the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and in all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* In the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 1 TO PARAGRAPH (a)(1) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD AFTER JUNE 30, 2016, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD HAS REACHED 1.15 PERCENT, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING DECEMBER 31, 2022, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [1]

| | Established small institutions | | | Large & highly complex institutions |
|---|---|---|---|---|
| | CAMELS composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Initial Base Assessment Rate | 3 to 16 | 6 to 30 | 16 to 30 | 3 to 30 |

[1] All amounts are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 3 to 16 basis points.

(ii) *CAMELS composite 3-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 6 to 30 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 16 to 30 basis points.

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 3 to 30 basis points.

(2) *Total base assessment rate schedule after adjustments.* In the first assessment period after June 30, 2016, that the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio for the prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the schedule in the following table:

TABLE 2 TO PARAGRAPH (a)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD HAS REACHED 1.15 PERCENT, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING DECEMBER 31, 2022, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [2]

| | Established small institutions | | | Large & highly complex institutions |
|---|---|---|---|---|
| | CAMELS composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Initial Base Assessment Rate | 3 to 16 | 6 to 30 | 16 to 30 | 3 to 30 |
| Unsecured Debt Adjustment | −5 to 0 | −5 to 0 | −5 to 0 | −5 to 0 |
| Brokered Deposit Adjustment | N/A | N/A | N/A | 0 to 10 |

TABLE 2 TO PARAGRAPH (a)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD HAS REACHED 1.15 PERCENT, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING DECEMBER 31, 2022, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [2]—Continued

| | Established small institutions | | | Large & highly complex institutions |
|---|---|---|---|---|
| | CAMELS composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Total Base Assessment Rate | 1.5 to 16 | 3 to 30 | 11 to 30 | 1.5 to 40 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

[2] All amounts are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 1.5 to 16 basis points.

(ii) *CAMELS composite 3-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 3 to 30 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 11 to 30 basis points.

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 1.5 to 40 basis points.

(b) Assessment rate schedules for established small institutions and large and highly complex institutions beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.

(1) *Initial base assessment rate schedule for established small institutions and large and highly complex institutions.* Beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the initial base assessment rate for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 3 TO PARAGRAPH (b)(1) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [1]

| | Established small institutions | | | Large & highly complex institutions |
|---|---|---|---|---|
| | CAMELS composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Initial Base Assessment Rate | 5 to 18 | 8 to 32 | 18 to 32 | 5 to 32 |

[1] All amounts are in basis points annually. Initial base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 5 to 18 basis points.

(ii) *CAMELS composite 3-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 8 to 32 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions initial base assessment rate schedule.* The annual initial base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 18 to 32 basis points.

(iv) *Large and highly complex institutions initial base assessment rate schedule.* The annual initial base assessment rates for all large and highly complex institutions shall range from 5 to 32 basis points.

(2) *Total base assessment rate schedule after adjustments.* Beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the total base assessment rates after adjustments for established small institutions and large and highly complex institutions, except as provided in paragraph (f) of this section, shall be as prescribed in the schedule in the following table:

TABLE 4 TO PARAGRAPH (b)(2) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [2]

| | Established small institutions | | | Large & Highly Complex Institutions |
|---|---|---|---|---|
| | CAMELS composite | | | |
| | 1 or 2 | 3 | 4 or 5 | |
| Initial Base Assessment Rate | 5 to 18 | 8 to 32 | 18 to 32 | 5 to 32 |
| Unsecured Debt Adjustment | −5 to 0 | −5 to 0 | −5 to 0 | −5 to 0 |
| Brokered Deposit Adjustment | N/A | N/A | N/A | 0 to 10 |
| Total Base Assessment Rate | 2.5 to 18 | 4 to 32 | 13 to 32 | 2.5 to 42 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.
[2] All amounts are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(i) *CAMELS composite 1- and 2-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 1 or 2 shall range from 2.5 to 18 basis points.

(ii) *CAMELS composite 3-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 3 shall range from 4 to 32 basis points.

(iii) *CAMELS composite 4- and 5-rated established small institutions total base assessment rate schedule.* The annual total base assessment rates for all established small institutions with a CAMELS composite rating of 4 or 5 shall range from 13 to 32 basis points.

(iv) *Large and highly complex institutions total base assessment rate schedule.* The annual total base assessment rates for all large and highly complex institutions shall range from 2.5 to 42 basis points.

* * * * *

(e) * * *

(1) * * *

(i) *Assessment rate schedules for new large and highly complex institutions once the DIF reserve ratio first reaches 1.15 percent on or after June 30, 2016, and through the assessment period ending December 31, 2022.* In the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, new large and new highly complex institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (a) of this section.

(ii) *Assessment rate schedules for new large and highly complex institutions beginning the first assessment period of 2023 and for all subsequent periods.* Beginning in the first assessment period of 2023 and for all subsequent assessment periods, new large and new highly complex institutions shall be subject to the initial and total base assessment rate schedules provided for in paragraph (b) of this section.

(iii) *Assessment rate schedules for new small institutions beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022*—(A) *Initial base assessment rate schedule for new small institutions.* In the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, the initial base assessment rate for a new small institution shall be the rate prescribed in the schedule in the following table:

TABLE 9 TO PARAGRAPH (e)(1)(iii)(A) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD HAS REACHED 1.15 PERCENT, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING DECEMBER 31, 2022 [1]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial Assessment Rate | 7 | 12 | 19 | 30 |

[1] All amounts for all risk categories are in basis points annually.

(*1*) *Risk category I initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(*2*) *Risk category II, III, and IV initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(B) *Total base assessment rate schedule for new small institutions.* In the first assessment period after June 30, 2016, that the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, the total base assessment rates after adjustments for a new small institution shall be the rate prescribed in the schedule in the following table:

TABLE 10 TO PARAGRAPH (e)(1)(iii)(B) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD AFTER JUNE 30, 2016, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD HAS REACHED 1.15 PERCENT, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING DECEMBER 31, 2022 [2]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial Assessment Rate | 7 | 12 | 19 | 30 |
| Brokered Deposit Adjustment (added) | N/A | 0 to 10 | 0 to 10 | 0 to 10 |
| Total Base Assessment Rate | 7 | 12 to 22 | 19 to 29 | 30 to 40 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.
[2] All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(*1*) *Risk category I total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 7 basis points.

(*2*) *Risk category II total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 12 to 22 basis points.

(*3*) *Risk category III total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category III shall range from 19 to 29 basis points.

(*4*) *Risk category IV total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 30 to 40 basis points.

(iv) *Assessment rate schedules for new small institutions beginning the first assessment period of 2023 and for all subsequent assessment periods*—(A) *Initial base assessment rate schedule for new small institutions.* Beginning in the first assessment period of 2023 and for all subsequent assessment periods, the initial base assessment rate for a new small institution shall be the rate prescribed in the schedule in the following table, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent:

TABLE 11 TO PARAGRAPH (e)(1)(iv)(A) INTRODUCTORY TEXT—INITIAL BASE ASSESSMENT RATE SCHEDULE BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023 AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS [1]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial Assessment Rate | 9 | 14 | 21 | 32 |

[1] All amounts for all risk categories are in basis points annually.

(*1*) *Risk category I initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Category I shall be 9 basis points.

(*2*) *Risk category II, III, and IV initial base assessment rate schedule.* The annual initial base assessment rates for all new small institutions in Risk Categories II, III, and IV shall be 14, 21, and 32 basis points, respectively.

(B) *Total base assessment rate schedule for new small institutions.* Beginning in the first assessment period of 2023 and for all subsequent assessment periods, the total base assessment rates after adjustments for a new small institution shall be the rate prescribed in the schedule in the following table, even if the reserve ratio equals or exceeds 2 percent or 2.5 percent:

TABLE 12 TO PARAGRAPH (e)(1)(iv)(B) INTRODUCTORY TEXT—TOTAL BASE ASSESSMENT RATE SCHEDULE (AFTER ADJUSTMENTS) [1] BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023 AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS [2]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial Assessment Rate | 9 | 14 | 21 | 32 |
| Brokered Deposit Adjustment (added) | N/A | 0 to 10 | 0 to 10 | 0 to 10 |
| Total Base Assessment Rate | 9 | 14 to 24 | 21 to 31 | 32 to 42 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.
[2] All amounts for all risk categories are in basis points annually. Total base rates that are not the minimum or maximum rate will vary between these rates.

(*1*) *Risk category I total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category I shall be 9 basis points.

(*2*) *Risk category II total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category II shall range from 14 to 24 basis points.

(*3*) *Risk category III total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category III shall range from 21 to 31 basis points.

(*4*) *Risk category IV total assessment rate schedule.* The annual total base assessment rates for all new small institutions in Risk Category IV shall range from 32 to 42 basis points.

(2) * * *

(i) *Beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent.* In the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent, and for all subsequent assessment periods through the assessment period ending December 31, 2022, where the reserve ratio as of the end of the prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 13 TO PARAGRAPH (e)(2)(i) INTRODUCTORY TEXT—INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE [1] BEGINNING THE FIRST ASSESSMENT PERIOD AFTER JUNE 30, 2016, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD HAS REACHED 1.15 PERCENT, AND FOR ALL SUBSEQUENT ASSESSMENT PERIODS THROUGH THE ASSESSMENT PERIOD ENDING DECEMBER 31, 2022, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [2]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial and Total Assessment Rate | 3 to 7 | 12 | 19 | 30 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

[2] All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk category I initial and total base assessment rate schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 3 to 7 basis points.

(B) *Risk category II, III, and IV initial and total base assessment rate schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 12, 19, and 30 basis points, respectively.

(C) All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

(ii) *Assessment rate schedule for insured branches of foreign banks beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent.* Beginning the first assessment period of 2023, where the reserve ratio of the DIF as of the end of the prior assessment period is less than 2 percent, the initial and total base assessment rates for an insured branch of a foreign bank, except as provided in paragraph (f) of this section, shall be the rate prescribed in the schedule in the following table:

TABLE 14 TO PARAGRAPH (e)(2)(ii) INTRODUCTORY TEXT—INITIAL AND TOTAL BASE ASSESSMENT RATE SCHEDULE [1] BEGINNING THE FIRST ASSESSMENT PERIOD OF 2023, WHERE THE RESERVE RATIO AS OF THE END OF THE PRIOR ASSESSMENT PERIOD IS LESS THAN 2 PERCENT [2]

| | Risk category I | Risk category II | Risk category III | Risk category IV |
|---|---|---|---|---|
| Initial and Total Assessment Rate | 5 to 9 | 14 | 21 | 32 |

[1] The depository institution debt adjustment, which is not included in the table, can increase total base assessment rates above the maximum assessment rates shown in the table.

[2] All amounts for all risk categories are in basis points annually. Initial and total base rates that are not the minimum or maximum rate will vary between these rates.

(A) *Risk category I initial and total base assessment rate schedule.* The annual initial and total base assessment rates for an insured branch of a foreign bank in Risk Category I shall range from 5 to 9 basis points.

(B) *Risk category II, III, and IV initial and total base assessment rate schedule.* The annual initial and total base assessment rates for Risk Categories II, III, and IV shall be 14, 21, and 32 basis points, respectively.

(C) *Same initial base assessment rate.* All insured branches of foreign banks in any one risk category, other than Risk Category I, will be charged the same initial base assessment rate, subject to adjustment as appropriate.

* * * * *

■ 6. Amend § 327.11 by revising paragraph (c)(3)(i) to read as follows:

**§ 327.11 Surcharges and assessments required to raise the reserve ratio of the DIF to 1.35 percent.**

* * * * *

(c) * * *

(3) * * *

(i) *Fraction of quarterly regular deposit insurance assessments paid by credit accruing institutions.* The fraction of assessments paid by credit accruing institutions shall equal quarterly deposit insurance assessments, as determined under § 327.16, paid by such institutions for each assessment period during the credit calculation period, divided by the total amount of quarterly deposit insurance assessments paid by all insured depository institutions during the credit calculation period, excluding the aggregate amount of surcharges imposed under paragraph (b) of this section.

* * * * *

■ 7. Amend § 327.16 as follows:

■ a. Redesignate paragraphs (a)(1)(i)(A) through (C) as (a)(1)(i)(B) through (D), respectively;

■ b. Add new paragraph (a)(1)(i)(A);

■ c. Revise newly redesignated paragraph (a)(1)(i)(B);

■ d. Redesignate paragraphs (d)(4)(ii)(A) through (C) as (d)(4)(ii)(B) through (D), respectively;

■ e. Add new paragraph (d)(4)(ii)(A); and

■ f. Revise newly redesignated paragraph (d)(4)(ii)(B).

The revisions and additions read as follows:

**§ 327.16 Assessment pricing methods—beginning the first assessment period after June 30, 2016, where the reserve ratio of the DIF as of the end of the prior assessment period has reached or exceeded 1.15 percent.**

* * * * *

(a) * * *

(1) * * *

(i) * * *

(A) 7.352 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) 9.352 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

* * * * *

(d) * * *

(4) * * *

(ii) * * *

(A) −5.127 whenever the assessment rate schedule set forth in § 327.10(a) is in effect;

(B) −3.127 whenever the assessment rate schedule set forth in § 327.10(b) is in effect;

* * * * *

■ 8. Amend appendix A to subpart A of part 327 as follows:

■ a. Revise sections I through III;

■ b. Remove sections IV and V; and

■ c. Redesignate section VI as section IV;

The revisions read as follows:

## Appendix A to Subpart A of Part 327—Method To Derive Pricing Multipliers and Uniform Amount

### I. Introduction

The uniform amount and pricing multipliers are derived from:

- A model (the Statistical Model) that estimates the probability of failure of an institution over a three-year horizon;
- The minimum initial base assessment rate;
- The maximum initial base assessment rate;
- Thresholds marking the points at which the maximum and minimum assessment rates become effective.

### II. The Statistical Model

The Statistical Model estimates the probability of an insured depository institution failing within three years using a logistic regression and pooled time-series cross-sectional data;[1] that is, the dependent variable in the estimation is whether an insured depository institution failed during the following three-year period. Actual model parameters for the Statistical Model are an average of each of three regression estimates for each parameter. Each of the three regressions uses end-of-year data from insured depository institutions' quarterly reports of condition and income (Call Reports and Thrift Financial Reports or TFRs[2]) for every third year to estimate probability of failure within the ensuing three years. One regression (Regression 1) uses insured depository institutions' Call Report and TFR data for the end of 1985 and failures from 1986 through 1988; Call Report and TFR data for the end of 1988 and failures from 1989 through 1991; and so on, ending with Call Report data for the end of 2009 and failures from 2010 through 2012. The second regression (Regression 2) uses insured depository institutions' Call Report and TFR data for the end of 1986 and failures from 1987 through 1989, and so on, ending with Call Report data for the end of 2010 and failures from 2011 through 2013. The third regression (Regression 3) uses insured depository institutions' Call Report and TFR data for the end of 1987 and failures from 1988 through 1990, and so on, ending with Call Report data for the end of 2011 and failures from 2012 through 2014. The regressions include only Call Report data and failures for established small institutions.

[1] Tests for the statistical significance of parameters use adjustments discussed by Tyler Shumway (2001) ''Forecasting Bankruptcy More Accurately: A Simple Hazard Model,'' Journal of Business 74:1, 101–124.

[2] Beginning in 2012, all insured depository institutions began filing quarterly Call Reports and the TFR was no longer filed.

Table A.1 lists and defines the explanatory variables (regressors) in the Statistical Model.

TABLE A.1—DEFINITIONS OF MEASURES USED IN THE FINANCIAL RATIOS METHOD

| Variables | Description |
|---|---|
| Leverage Ratio (%) | Tier 1 capital divided by adjusted average assets. (Numerator and denominator are both based on the definition for prompt corrective action.) |
| Net Income before Taxes/Total Assets (%). | Income (before applicable income taxes and discontinued operations) for the most recent twelve months divided by total assets.[1] |
| Nonperforming Loans and Leases/Gross Assets (%). | Sum of total loans and lease financing receivables past due 90 or more days and still accruing interest and total nonaccrual loans and lease financing receivables (excluding, in both cases, the maximum amount recoverable from the U.S. Government, its agencies or government-sponsored enterprises, under guarantee or insurance provisions) divided by gross assets.[2] [3] |
| Other Real Estate Owned/Gross Assets (%). | Other real estate owned divided by gross assets.[2] |
| Brokered Deposit Ratio | The ratio of the difference between brokered deposits and 10 percent of total assets to total assets. For institutions that are well capitalized and have a CAMELS composite rating of 1 or 2, reciprocal deposits are deducted from brokered deposits. If the ratio is less than zero, the value is set to zero. |
| Weighted Average of C, A, M, E, L, and S Component Ratings. | The weighted sum of the ''C,'' ''A,'' ''M,'' ''E'', ''L'', and ''S'' CAMELS components, with weights of 25 percent each for the ''C'' and ''M'' components, 20 percent for the ''A'' component, and 10 percent each for the ''E'', ''L'', and ''S'' components. In instances where the ''S'' component is missing, the remaining components are scaled by a factor of 10/9.[4] |
| Loan Mix Index | A measure of credit risk described below. |
| One-Year Asset Growth (%) | Growth in assets (adjusted for mergers[5]) over the previous year in excess of 10 percent.[6] If growth is less than 10 percent, the value is set to zero. |

[1] For purposes of calculating actual assessment rates (as opposed to model estimation), the ratio of Net Income before Taxes to Total Assets is bounded below by (and cannot be less than) –25 percent and is bounded above by (and cannot exceed) 3 percent. For purposes of model estimation only, the ratio of Net Income before Taxes to Total Assets is defined as income (before income taxes and extraordinary items and other adjustments) for the most recent twelve months divided by total assets.

[2] For purposes of calculating actual assessment rates (as opposed to model estimation), ''Gross assets'' are total assets plus the allowance for loan and lease financing receivable losses (ALLL); for purposes of estimating the Statistical Model, for years before 2001, when allocated transfer risk was not included in ALLL in Call Reports, allocated transfer risk is included in gross assets separately.

[3] Delinquency and non-accrual data on government guaranteed loans are not available for the entire estimation period. As a result, the Statistical Model is estimated without deducting delinquent or past-due government guaranteed loans from the nonperforming loans and leases to gross assets ratio.

[4] The component rating for sensitivity to market risk (the ''S'' rating) is not available for years before 1997. As a result, and as described in the table, the Statistical Model is estimated using a weighted average of five component ratings excluding the ''S'' component where the component is not available.

[5] Growth in assets is also adjusted for acquisitions of failed banks.

[6] For purposes of calculating actual assessment rates (as opposed to model estimation), the maximum value of the One-Year Asset Growth measure is 230 percent; that is, asset growth (merger adjusted) over the previous year in excess of 240 percent (230 percentage points in excess of the 10 percent threshold) will not further increase a bank's assessment rate.

The financial variable measures used to estimate the failure probabilities are obtained from Call Reports and TFRs. The weighted average of the ''C,'' ''A,'' ''M,'' ''E,'' ''L,'', and ''S'' component ratings measure is based on component ratings obtained from the most recent bank examination conducted within 24 months before the date of the Call Report or TFR.

The Loan Mix Index assigns loans to the categories of loans described in Table A.2. For each loan category, a charge-off rate is calculated for each year from 2001 through 2014. The charge-off rate for each year is the aggregate charge-off rate on all such loans held by small institutions in that year. A weighted average charge-off rate is then calculated for each loan category, where the weight for each year is based on the number of small-bank failures during that year.[3] A Loan Mix Index for each established small institution is calculated by: (1) multiplying the ratio of the institution's amount of loans in a particular loan category to its total assets by the associated weighted average charge-off rate for that loan category; and (2) summing the products for all loan categories. Table A.2 gives the weighted average charge-off rate for each category of loan, as calculated through the end of 2014. The Loan Mix Index excludes credit card loans.

TABLE A.2—LOAN MIX INDEX CATEGORIES

| | Weighted charge-off rate percent |
|---|---|
| Construction & Development | 4.4965840 |
| Commercial & Industrial | 1.5984506 |
| Leases | 1.4974551 |
| Other Consumer | 1.4559717 |
| Loans to Foreign Government | 1.3384093 |
| Real Estate Loans Residual | 1.0169338 |
| Multifamily Residential | 0.8847597 |
| Nonfarm Residential | 0.7286274 |
| 1–4 Family Residential | 0.6973778 |
| Loans to Depository Banks | 0.5760532 |
| Agricultural Real Estate | 0.2376712 |
| Agriculture | 0.2432737 |

For each of the three regression estimates (Regression 1, Regression 2 and Regression 3), the estimated probability of failure (over a three-year horizon) of institution $i$ at time $T$ is

*Equation 1*

$$P_{iT} = 1/((1+\exp(-Z_{iT}))$$

where

*Equation 2*

$$Z_{iT} = \beta_0 + \beta_1 (\text{Leverage Ratio}_{iT}) + \beta_2 (\text{Nonperforming loans and leases ratio}_{iT}) + \beta_3 (\text{Other real estate owned ratio}_{iT}) + \beta_4 (\text{Net income before taxes ratio}_{iT}) + \beta_5 (\text{Brokered deposit ratio}_{iT}) + \beta_6 (\text{Weighted average CAMELS component rating}_{iT}) + \beta_7 (\text{Loan mix index}_{iT}) + \beta_8 (\text{One-year asset growth}_{iT})$$

where the β variables are parameter estimates. As stated earlier, for actual assessments, the β values that are applied are averages of each of the individual parameters over three separate regressions. Pricing multipliers (discussed in the next section) are based on $Z_{iT}$.[4]

**III. Derivation of Uniform Amount and Pricing Multipliers**

The uniform amount and pricing multipliers used to compute the annual initial base assessment rate in basis points, $R_{iT}$, for any such institution $i$ at a given time $T$ will be determined from the Statistical Model as follows:

*Equation 3*

$$R_{iT} = \alpha_0 + \alpha_1 * Z_{iT} \text{ subject to } Min \leq R_{iT} \leq Max^5$$

[3] An exception is ''Real Estate Loans Residual,'' which consists of real estate loans held in foreign offices. Few small insured depository institutions report this item and a statistically reliable estimate of the weighted average charge-off rate could not be obtained. Instead, a weighted average of the weighted average charge-off rates of the other real estate loan categories is used. (The other categories are construction & development, multifamily residential, nonfarm nonresidential, 1–4 family residential, and agricultural real estate.) The weight for each of the other real estate loan categories is based on the aggregate amount of the loans held by small insured depository institutions as of December 31, 2014.

[4] The $Z_{iT}$ values have the same rank ordering as the probability measures $P_{iT}$.

where $\alpha_0$ and $\alpha_1$ are a constant term and a scale factor used to convert $Z_{iT}$ to an assessment rate, *Max* is the maximum initial base assessment rate in effect and *Min* is the minimum initial base assessment rate in effect. ($R_{iT}$ is expressed as an annual rate, but the actual rate applied in any quarter will be $R_{iT}/4$.)

Solving equation 3 for minimum and maximum initial base assessment rates simultaneously,

$Min = \alpha_0 + \alpha_1 * Z_N$ and $Max = \alpha_0 + \alpha_1 * Z_X$

where $Z_X$ is the value of $Z_{iT}$ above which the maximum initial assessment rate (*Max*) applies and $Z_N$ is the value of $Z_{iT}$ below which the minimum initial assessment rate (*Min*) applies, results in values for the constant amount, $\alpha_0$, and the scale factor, $\alpha_1$:

*Equation 4*

$$\alpha_0 = Min - \frac{Z_N * (Max - Min)}{Z_X - Z_N}$$

and *Equation 5*

$$\alpha_1 = \frac{Max - Min}{Z_X - Z_N}$$

The values for $Z_X$ and $Z_N$ will be selected to ensure that, for an assessment period shortly before adoption of a final rule, aggregate assessments for all established small institutions would have been approximately the same under the final rule as they would have been under the assessment rate schedule that—under rules in effect before adoption of the final rule—will automatically go into effect when the reserve ratio reaches 1.15 percent. As an example, using aggregate assessments for all established small institutions for the third quarter of 2013 to determine $Z_X$ and $Z_N$, and assuming that *Min* had equaled 3 basis points and *Max* had equaled 30 basis points, the value of $Z_X$ would have been 0.87 and the value of $Z_N$ −6.36. Hence based on equations 4 and 5,

$\alpha_0 = 26.751$ and

$\alpha_1 = 3.734$.

Therefore from equation 3, it follows that

*Equation 6*

$$R_{iT} = 26.751 + 3.734 * Z_{iT} \text{ subject to } 3 \leq R_{iT} \leq 30$$

Substituting equation 2 produces an annual initial base assessment rate for institution *i* at time *T*, $R_{iT}$, in terms of the uniform amount, the pricing multipliers and model variables:

*Equation 7*

$$R_{iT} = [26.751 + 3.734 * \beta_0] + 3.734 * [\beta_1 (\text{Leverage ratio}_{iT})] + 3.734 * \beta_2 (\text{Nonperforming loans and leases ratio}_{iT}) + 3.734 * \beta_3 (\text{Other real estate owned ratio}_{iT}) + 3.734 * \beta_4 (\text{Net income before taxes ratio}_{iT}) + 3.734 * \beta_5 (\text{Brokered deposit ratio}_{iT}) + 3.734 * \beta_6 (\text{Weighted average CAMELS component rating}_{iT}) + 3.734 * \beta_7 (\text{Loan mix index}_{iT}) + 3.734 * \beta_8 (\text{One-year asset growth}_{iT})$$

[5] $R_{iT}$ is also subject to the minimum and maximum assessment rates applicable to established small institutions based upon their CAMELS composite ratings.

again subject to $3 \leq R_{iT} \leq 30$ [6]

where $26.751 + 3.734 * \beta_0$ equals the uniform amount, $3.734 * \beta_j$ is a pricing multiplier for the associated risk measure *j,* and *T* is the date of the report of condition corresponding to the end of the quarter for which the assessment rate is computed.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on October 18, 2022.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2022–22985 Filed 10–20–22; 11:15 am]

**BILLING CODE 6714–01–P**

[6] As stated above, $R_{iT}$ is also subject to the minimum and maximum assessment rates applicable to established small institutions based upon their CAMELS composite ratings.


# FEDERAL REGISTER

Vol. 87 Monday,
No. 204 October 24, 2022

Part III

## Federal Deposit Insurance Corporation

Designated Reserve Ratio for 2023; Notice

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Designated Reserve Ratio for 2023

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice of Designated Reserve Ratio for 2023.

**SUMMARY:** Pursuant to the Federal Deposit Insurance Act (FDI Act), the Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) designates that the Designated Reserve Ratio (DRR) for the Deposit Insurance Fund shall remain at 2 percent for 2023. The Board is publishing this notice as required by the FDI Act.

**FOR FURTHER INFORMATION CONTACT:** Ashley Mihalik, Chief, Banking and Regulatory Policy Section, Division of Insurance and Research, 202–898–3793, *amihalik@fdic.gov;* Daniel Hoople, Chief, Fund Analysis and Pricing Section, Division of Insurance and Research, 202–898–3835, *dhoople@fdic.gov;* or Kathryn Marks, Counsel, Legal Division, 202–898–3896, *kmarks@fdic.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to the FDI Act, the Board designates that the DRR for the Deposit Insurance Fund shall remain at 2 percent for 2023. The Board is publishing this notice as required by section 7(b)(3)(A)(i) of the FDI Act (12 U.S.C. 1817(b)(3)(A)(i)). There is no need to amend 12 CFR 327.4(g), the section of the FDIC's regulations which sets forth the DRR, because the DRR for 2023 is the same as the current DRR.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on October 18, 2022.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2022–22987 Filed 10–20–22; 11:15 am]

**BILLING CODE 6714–01–P**


# FEDERAL REGISTER

Vol. 87 Monday,
No. 204 October 24, 2022

Part IV

## Federal Deposit Insurance Corporation

12 CFR Part 327

Assessments, Amendments To Incorporate Troubled Debt Restructuring Accounting Standards Update; Final Rule

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 327**

**RIN 3064–AF85**

## Assessments, Amendments To Incorporate Troubled Debt Restructuring Accounting Standards Update

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation is adopting a final rule that incorporates updated accounting standards in the risk-based deposit insurance assessment system applicable to all large insured depository institutions (IDIs), including highly complex IDIs. The FDIC calculates deposit insurance assessment rates for large and highly complex IDIs based on supervisory ratings and financial measures, including the underperforming assets ratio and the higher-risk assets ratio, both of which are determined, in part, using restructured loans or troubled debt restructurings (TDRs). The final rule includes modifications to borrowers experiencing financial difficulty, an accounting term recently introduced by the Financial Accounting Standards Board (FASB) to replace TDRs, in the underperforming assets ratio and higher-risk assets ratio for purposes of deposit insurance assessments.

**DATES:** The final rule is effective January 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Scott Ciardi, Chief, Large Bank Pricing, 202–898–7079, *sciardi@fdic.gov;* Ashley Mihalik, Chief, Banking and Regulatory Policy, 202–898–3793, *amihalik@fdic.gov;* Kathryn Marks, Counsel, 202–898–3896, *kmarks@fdic.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Policy Objective and Overview of Final Rule

The Federal Deposit Insurance Act (FDI Act) requires that the FDIC establish a risk-based deposit insurance assessment system.[1] The risk-based assessment system calculates assessments by weighing, among other things, the risks attributable to ''different categories and concentrations of assets'' and ''any other factors the Corporation determines are relevant'' to the risk of a loss to the DIF, as well as ''the revenue needs of the Deposit Insurance Fund.'' [2] The purpose of this final rule is to address a change to accounting standards that affects the FDIC's calculations of risk-based assessments for IDIs.

In 2022, the Financial Accounting Standards Board (FASB) eliminated the recognition and measurement guidance of certain loans with changes to the original terms, known as troubled debt restructurings (TDRs), and, instead, introduced new requirements related to financial statement disclosure of certain modifications of receivables made to borrowers experiencing financial difficulty, or ''modifications to borrowers experiencing financial difficulty.'' [3] TDRs reported by large and highly complex IDIs have been used in the FDIC's risk-based assessment system as one component in the calculation of a bank's overall level of risk.[4] These restructured loans typically present an elevated level of credit risk as the borrowers are not able to perform according to the original contractual terms, and the FDIC prices for this risk through the large and highly complex bank scorecards.

In order to ensure that the risk-based assessment system continues to capture the risk posed by restructured loans, the FDIC is finalizing its proposal to include modifications to borrowers experiencing financial difficulty in the large and highly complex bank scorecards, as such term will replace TDRs upon adoption of ASU 2022–02. To incorporate the updated accounting standards into deposit insurance assessments, the final rule defines ''restructured loans'' in the underperforming assets ratio to include modifications to borrowers experiencing financial difficulty, and includes such modifications in the definitions used in the higher-risk assets ratio. Both of these ratios are used to determine risk-based deposit insurance assessments for large and highly complex banks. Absent the final rule, the FDIC would not be able to price for modifications to borrowers experiencing financial difficulty, which are restructured loans and a meaningful indicator of credit risk, once most institutions adopt ASU 2022–02 and updates to the Call Report have been implemented as of March 31, 2023. Failure to capture this risk in deposit insurance assessments for large and highly complex banks could adversely affect the DIF.

### II. Background

#### *A. Deposit Insurance Assessments*

The FDIC charges all IDIs an assessment for deposit insurance equal to the IDI's deposit insurance assessment base multiplied by its risk-based assessment rate.[5] An IDI's assessment base and assessment rate are determined each quarter using supervisory ratings and information collected from the Consolidated Reports of Condition and Income (Call Report) or the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as appropriate. Generally, an IDI's assessment base equals its average consolidated total assets minus its average tangible equity.[6]

An IDI's assessment rate is calculated using different methods dependent upon whether the IDI is classified for deposit insurance assessment purposes as a small, large, or highly complex bank.[7] Large and highly complex banks are assessed using a scorecard approach that combines CAMELS ratings and certain forward-looking financial measures to assess the risk that a large or highly complex bank poses to the Deposit Insurance Fund (DIF).[8] The score that each large or highly complex bank receives is used to determine its deposit insurance assessment rate. One scorecard applies to most large banks and another applies to highly complex banks. Both scorecards use quantitative financial measures that are useful for predicting a large or highly complex bank's long-term performance. Two of the measures in the large and highly complex bank scorecards, the credit quality measure and the concentration measure, are determined using restructured loans or TDRs. These measures are described in more detail below.

#### *B. Credit Quality Measure*

Both the large bank and the highly complex bank scorecards include a

[1] 12 U.S.C. 1817(b).

[2] *See* Section 7(b)(1)(C) of the FDI Act, 12 U.S.C. 1817(b)(1)(C).

[3] FASB Accounting Standards Update (ASU) No. 2022–02, ''Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures,'' March 2022, available at *https://www.fasb.org/page/getarticle?uid=fasb_Media_Advisory_03-31-22.*

[4] For deposit insurance assessment purposes, large IDIs are generally those that have $10 billion or more in total assets. A highly complex IDI is generally defined as an institution that has $50 billion or more in total assets and is controlled by a parent holding company that has $500 billion or more in total assets, or is a processing bank or trust company. *See* 12 CFR 327.8(f) and (g). As used in this final rule, the term ''large bank'' is synonymous with ''large institution,'' and the term ''highly complex bank'' is synonymous with ''highly complex institution,'' as those terms are defined in 12 CFR 327.8.

[5] *See* 12 CFR 327.3(b)(1).

[6] *See* 12 CFR 327.5.

[7] *See* 12 CFR 327.8(e), (f), and (g).

[8] *See* 12 CFR 327.16(b); *see also* 76 FR 10672 (Feb. 25, 2011) and 77 FR 66000 (Oct. 31, 2012).

credit quality measure. The credit quality measure is the greater of (1) the criticized and classified items to the sum of Tier 1 capital and reserves score or (2) the underperforming assets to the sum of Tier 1 capital and reserves score.[9] Each risk measure, including the criticized and classified items ratio and the underperforming assets ratio, is converted to a score between 0 and 100 based upon minimum and maximum cutoff values.[10]

The underperforming assets ratio is described identically in the large and highly complex bank scorecards as the sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans (including restructured 1–4 family loans), and other real estate owned (ORE), excluding the maximum amount recoverable from the U.S. Government, its agencies, or Government-sponsored agencies, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves.[11]

The specific data used to identify the ''restructured loans'' referenced in the above description are those items that banks disclose in their Call Report on Schedule RC–C, Part I, Memorandum items 1.a. through 1.g, ''Loans restructured in troubled debt restructurings that are in compliance with their modified terms.'' The portion of restructured loans that are guaranteed or insured by the U.S. Government are excluded from underperforming assets. This data is collected in Call Report Schedule RC–O, Memorandum item 16, ''Portion of loans restructured in troubled debt restructurings that are in compliance with their modified terms and are guaranteed or insured by the U.S. government.''

*C. Concentration Measure*

Both the large and highly complex bank scorecards also include a concentration measure. The concentration measure is the greater of (1) the higher-risk assets to the sum of Tier 1 capital and reserves score or (2) the growth-adjusted portfolio concentrations score.[12] Each risk measure, including the higher risk assets ratio and the growth-adjusted portfolio concentrations ratio, is converted to a score between 0 and 100 based upon minimum and maximum cutoff values.[13] The higher-risk assets ratio captures the risk associated with concentrated lending in higher-risk areas. Higher-risk assets include construction and development (C&D) loans, higher-risk commercial and industrial (C&I) loans, higher-risk consumer loans, nontraditional mortgage loans, and higher-risk securitizations.[14]

Higher-risk C&I loans are defined, in part, based on whether the loan is owed to the bank by a higher-risk C&I borrower, which includes, among other things, a borrower that obtains a refinance of an existing C&I loan, subject to certain conditions. Higher-risk consumer loans are defined as all consumer loans where, as of origination, or, if the loan has been refinanced, as of refinance, the probability of default within two years is greater than 20 percent, excluding those consumer loans that meet the definition of a nontraditional mortgage loan. A refinance for purposes of higher-risk C&I loans and higher-risk consumer loans is defined in the assessment regulations and explicitly does not include modifications to a loan that would otherwise meet the definition of a refinance, but that results in the classification of a loan as a TDR.

*D. FASB's Elimination of Troubled Debt Restructurings*

On March 31, 2022, FASB issued ASU 2022–02.[15] This update eliminated the recognition and measurement guidance for TDRs for all entities that have adopted FASB Accounting Standards Update No. 2016–13 (ASU 2016–13), ''Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments'' and the Current Expected Credit Losses (CECL) methodology.[16] The rationale was that ASU 2016–13 requires the measurement and recording of lifetime expected credit losses on an asset that is within the scope of ASU 2016–13, and as a result, credit losses from TDRs have been captured in the allowance for credit losses. Therefore, stakeholders observed and asserted that the additional designation of a loan modification as a TDR and the related accounting were unnecessarily complex and provided less meaningful information than under the incurred loss methodology.[17]

The update eliminates the recognition of TDRs and, instead, introduces new and enhanced financial statement disclosure requirements related to certain modifications of receivables made to borrowers experiencing financial difficulty, or ''modifications to borrowers experiencing financial difficulty.'' Such modifications are limited to those that result in principal forgiveness, interest rate reductions, other-than-insignificant payment delays, or term extensions in the current reporting period. Modifications to borrowers experiencing financial difficulty may be different from those previously captured in TDR disclosures because an entity no longer would have to determine whether the creditor has granted a concession, which is a current requirement to determine whether a modification represents a TDR. The update requires entities to disclose information about (a) the types of modifications provided, disaggregated by modification type, (b) the expected financial effect of those modifications, and (c) the performance of the loans after modification.

For entities that have adopted CECL, ASU 2022–02 is effective for fiscal years beginning after December 15, 2022.[18] FASB also permitted the early adoption of ASU 2022–02 by any entity that has adopted CECL. For regulatory reporting purposes, if an institution chooses to early adopt ASU 2022–02 during 2022, Supplemental Instructions to the Call Report specify that the institution should implement ASU 2022–02 for the same quarter-end report date and report ''modifications to borrowers experiencing financial difficulty'' in the current TDR Call Report line items.[19] These line items include Schedule RC–C, Part I, Memorandum items 1.a. through 1.g., which are used to identify ''restructured loans'' for the underperforming asset ratio used in the large and highly complex bank scorecards, described above. As a result, to date, a large or highly complex institution that has early adopted ASU

[9] *See* 12 CFR 327.16(b)(1)(ii)(A)(*2*)(*iv*).

[10] *See* 12 CFR part 327, appendix B.

[11] *See* 12 CFR part 327, appendix A.

[12] *See* 12 CFR 327.16(b)(1)(ii)(A)(*2*)(*iii*).

[13] *See* 12 CFR part 327, appendix C.

[14] *Id.*

[15] FASB Accounting Standards Update No. 2022–02, ''Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage Disclosures,'' available at *https://www.fasb.org/Page/ShowPdf?path=ASU+2022-02.pdf.*

[16] FASB Accounting Standards Update No. 2016–13, ''Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments,'' June 2016, available at *https://www.fasb.org/Page/ShowPdf?path=ASU+2016-13.pdf.*

[17] FASB Accounting Standards Update No. 2022–02, at BC19, pp. 57–58.

[18] Generally, entities that are U.S. Securities and Exchange Commission (SEC) filers, excluding smaller reporting companies as defined by the SEC, were required to adopt CECL beginning in January 2020. Most other entities are required to adopt CECL beginning in January 2023.

[19] *See* Financial Institution Letter (FIL) 17–2022, Consolidated Reports of Condition and Income for First Quarter 2022. *See also* Supplemental Instructions, March 2022 Call Report Materials, First 2022 Call, Number 299, available at *https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC031_FFIEC041_FFIEC051_suppinst_202203.pdf.*

2022–02 and is reporting modifications to borrowers experiencing financial difficulty in the current TDR Call Report line items is assigned a deposit insurance assessment rate that relies, in part, on this reporting. The FDIC and other members of the Federal Financial Institutions Examination Council (FFIEC) are planning to revise the Call Report forms and instructions to replace the current TDR terminology with updated language from ASU 2022–02 for the first quarter of 2023.

**III. Discussion of Comments Received**

On July 27, 2022, the FDIC published in the **Federal Register** a notice of proposed rulemaking, (the proposed rule, or proposal) [20] that would incorporate into the large and highly complex bank assessment scorecards the updated accounting standard that eliminates the recognition of TDRs and, instead, requires new financial statement disclosures on ''modifications to borrowers experiencing financial difficulty.'' Specifically, the FDIC proposed to expressly define restructured loans in the underperforming assets ratio to include ''modifications to borrowers experiencing financial difficulty.'' The FDIC also proposed to amend the definition of a refinance for the purposes of determining whether a loan is a higher-risk C&I loan or a higher-risk consumer loan, both elements of the higher-risk assets ratio. Under the proposal, a refinance would not include modifications to a loan that otherwise would meet the definition of a refinance, but that result in the classification of a loan as a modification to borrowers experiencing financial difficulty. The proposal would not affect the small bank deposit insurance assessment system.

The FDIC issued the proposed rule with a 30-day comment period. The FDIC received two comment letters in response to the proposal. Commenters included two trade associations that submitted a joint comment letter (collectively, the Associations) and an insured depository institution. Generally, the commenters expressed support for the removal of TDRs from the large and highly complex bank assessment scorecards upon adoption of CECL and ASU 2022–02.

The commenters also asked the FDIC to consider removing TDRs without replacement, stating that the new accounting term, ''modifications to borrowers experiencing financial difficulty,'' is not an appropriate replacement for TDRs in the large and highly complex bank scorecards. The Associations stated that modifications to borrowers experiencing financial difficulty are not a measure of asset quality and are not analogous to TDRs.

With respect to these comments, the FDIC recognizes that while modifications to borrowers experiencing financial difficulty and TDRs are not identically defined, they both are types of restructured loans and are indicators of elevated credit risk. TDRs have been an important component of risk-based pricing for large and highly complex banks, as they have been shown to be a statistically significant predictor of the performance of large institutions during a stress period.[21] Though not identical to TDRs, modifications to borrowers experiencing financial difficulty are made to borrowers who are unable to perform according to the original contractual terms of their loans. Such modification activity typically indicates an elevated level of credit risk. While the reporting of TDRs will be eliminated under ASU 2022–02, the risk presented by restructured loans remains.

All commenters supported the removal of TDRs from the large and highly complex bank scorecards, and one commenter stated that the alternative of requiring large banks to continue to report TDRs solely for purposes of calculating deposit insurance assessments would impose significant burdens whose costs would not justify the benefits. In the absence of TDRs, the FDIC believes that the new accounting term should be included in the large bank scorecard's credit quality measure as an indicator of elevated credit risk. The alternative suggested by commenters, eliminating TDRs entirely from the large bank scorecard and not replacing them with modifications to borrowers experiencing financial difficulty, would eliminate a significant indicator of credit risk. Accounting for this risk is important to meeting the FDIC's statutory obligation to assess institutions based on risk, and failure to capture this risk in deposit insurance assessments for large and highly complex banks could adversely affect the DIF.

The Associations also wrote that replacing TDRs with modifications to borrowers experiencing financial difficulty would result in double-counting of these loans in the underperforming asset ratio because such modifications include both performing and non-performing loans. Currently, reporting by early adopters distinguishes between performing and non-performing modifications to borrowers experiencing financial difficulty, thereby ensuring that such loans will not be double-counted in the underperforming assets ratio. The FDIC will monitor future updates to the reporting of modifications to borrowers experiencing financial difficulty for changes that would result in double-counting in the underperforming assets ratio, if any.

All commenters suggested that including modifications to borrowers experiencing financial difficulty in large bank pricing would discourage banks from working with their borrowers and would result in pro-cyclical assessments. With respect to this concern, the FDIC does not believe that its proposal to include modifications to borrowers experiencing financial difficulty in the large bank and highly complex bank scorecards is inconsistent with guidance that encourages institutions to work prudently and constructively with borrowers who are unable to meet their contractual payment obligations due to financial stress.[22] Loan modification programs can serve as proactive measures that are in the best interests of institutions and their borrowers, and can ultimately reduce overall loss exposure. At the same time, modifications typically reflect elevated credit risk compared to loans that have not been modified and should be included in a credit quality measure for risk-based deposit insurance assessments. Institutions have an incentive to work prudently and constructively with borrowers through loan modification programs to reduce the likelihood of the loans not performing and facing both higher losses and deposit insurance assessments as a result of reporting increased non-performing loans and losses. Lastly, the Federal banking agencies emphasize that examiners will exercise judgment in reviewing loan modifications. Examiners will not automatically adversely classify such loans or criticize institutions for working with borrowers in a safe and sound manner.

All commenters asked the FDIC to consider limiting the data on modifications to borrowers experiencing financial difficulty to those loan modifications that occurred in the prior 12 months from the reporting date of the assessment. The commenters stated that ASU 2022–02 requires the disclosure of

[20] 87 FR 45023 (July 27, 2022).

[21] 76 FR at 10688 (Feb. 25, 2011).

[22] *See, e.g.,* FDIC Press Release 49–2020, ''Agencies Issue Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus,'' dated April 7, 2020, available at *https://www.fdic.gov/news/press-releases/2020/pr20049.html.*

certain modifications to borrowers experiencing financial difficulty for the current reporting period and then certain performance disclosures for modifications to borrowers experiencing financial difficulty in the 12 months after the modifications, in contrast with TDRs which are reported on a cumulative basis. To allow bankers to better understand how loan modifications to borrowers experiencing financial difficulty will be reported on the Call Report, and to comment on how the proposed changes would affect assessments, the Associations requested that the FDIC reopen the comment period for the proposal once revisions to the Call Report instructions have been made.

As discussed above, the FDIC and other members of the FFIEC are planning to revise the Call Report forms and instructions to replace the current TDR terminology with updated language from ASU 2022–02 for the first quarter of 2023. The proposed revisions to the instructions would describe how institutions would apply ASU 2022–02 and report modifications to borrowers experiencing financial difficulty. Institutions will have an opportunity to comment on the joint notice and request for comment on the proposed revisions to the Call Report, including the aspects of the collections of information, such as burden and utility of the information to be collected.

As commenters noted, and as described below in the *Expected Effects* section, the FDIC will not have the information necessary to fully estimate the impact of the final rule even once updated Call Report instructions are in place, as the majority of large and highly complex banks have not yet adopted ASU 2022–02 and are not reporting data on modifications to borrowers experiencing financial difficulty. Modifications to borrowers experiencing financial difficulty could be higher, lower, or similar to previously reported TDRs, due to a number of factors beyond the Call Report instructions.

Modifications to borrowers experiencing financial difficulty are restructured loans and, in the FDIC's view, are an indicator of elevated credit risk that should be included in the large bank and highly complex bank scorecards. Furthermore, such elevated credit risk is not necessarily eliminated within a given time frame, such as a 12 month period.

Accounting for such risk is particularly important once institutions implement ASU 2022–02 and no longer report TDRs, which for most institutions will be March 31, 2023. Therefore, the FDIC intends to use the modifications data as defined in the updated Call Report instructions once they are finalized. Reopening the comment period would delay the effective date of the final rule and the FDIC would not be able to account for the risk posed by modifications to borrowers experiencing financial difficulty. Once banks begin to report modifications to borrowers experiencing financial difficulty, such modifications will be the only replacement available to capture the risk presented by restructured loans that has previously been captured by the reporting of TDRs for large and highly complex bank deposit insurance assessments. While commenters stated that modifications to borrowers experiencing financial difficulty were not an appropriate substitute for TDRs, no commenter offered an alternative that would sufficiently capture the risk presented by restructured loans.

In light of commenters' concerns about how modifications to borrowers experiencing financial difficulty will be reported, and given that there may be some uncertainty over how the inclusion of modifications to borrowers experiencing financial difficulty in lieu of TDRs might affect underperforming assets and assessments, the FDIC recognizes that it may need to propose an additional data collection item or revise the underperforming assets ratio after a reasonable period of observation to adequately price for the risk presented by such modifications.

## IV. The Final Rule

### *A. Summary*

The FDIC is adopting the proposed rule without change. Under the final rule, the FDIC will incorporate into the large and highly complex bank assessment scorecards the updated accounting standard that eliminates the recognition of TDRs and, instead, requires new financial statement disclosures on ''modifications to borrowers experiencing financial difficulty.'' The FDIC also will expressly define restructured loans in the underperforming assets ratio to include ''modifications to borrowers experiencing financial difficulty.'' Lastly, the FDIC will amend the definition of a refinance for the purposes of determining whether a loan is a higher-risk C&I loan or a higher-risk consumer loan, both elements of the higher-risk assets ratio. Under the final rule, a refinance would not include modifications to a loan that otherwise would meet the definition of a refinance, but that result in the classification of a loan as a modification to borrowers experiencing financial difficulty. The final rule does not affect the small bank deposit insurance assessment system.

### *B. Underperforming Assets Ratio*

The FDIC is amending the underperforming assets ratio used in the large and highly complex bank pricing scorecards to conform to the updated accounting standards in ASU 2022–02. The amended text will explicitly define restructured loans to include modifications to borrowers experiencing financial difficulty, which the FDIC will use to calculate assessments for large and highly complex banks that have adopted CECL and ASU 2022–02, and TDRs, which the FDIC will continue to use for the remaining large and highly complex banks.

### *C. Higher-Risk Assets Ratio*

The FDIC is amending the definition of a refinance, in determining whether a loan is a higher-risk C&I loan or a higher-risk consumer loan for deposit insurance assessment purposes, to conform to the updated accounting standards in ASU 2022–02. Specifically, a refinance of a C&I loan will not include a modification or series of modifications to a commercial loan that would otherwise meet the definition of a refinance, but that result in the classification of a loan as a modification to borrowers experiencing financial difficulty, for a large or highly complex bank that has adopted CECL and ASU 2022–02, or that result in the classification of a loan as a TDR, for all remaining large and highly complex banks. For purposes of higher-risk consumer loans, a refinance will not include modifications to a loan that would otherwise meet the definition of a refinance, but that result in the classification of a loan as a modification to borrowers experiencing financial difficulty, for a large or highly complex bank that has adopted CECL and ASU 2022–02, or that result in the classification of a loan as a TDR, for all remaining large and highly complex banks.

## V. Expected Effects

As of June 30, 2022, the FDIC insured 144 banks that were classified as large or highly complex for deposit insurance assessment purposes, and that will be affected by the final rule.[23] The FDIC expects most of these institutions will adopt CECL by January 1, 2023, the effective date of the rule. Absent the final rule, the FDIC would not be able to price for modifications to borrowers experiencing financial difficulty, which

[23] FDIC Call Report data June 30, 2022.

are restructured loans and a meaningful indicator of credit risk, once most institutions adopt ASU 2022–02 and updates to the Call Report have been implemented as of March 31, 2023. Failure to capture this risk in deposit insurance assessments for large and highly complex banks could adversely affect the DIF.

The primary expected effect of the final rule is the change in underperforming assets, and the consequent change in assessment rates, that will occur as a result of the difference between the amount of TDRs that most banks are currently reporting and the amount of modifications to borrowers experiencing financial difficulty that banks will report upon adoption of ASU 2022–02. The effect of this final rule on assessments paid by large and highly complex banks is difficult to estimate since most banks have not yet implemented ASU 2022–02 and are not reporting modifications to borrowers experiencing financial difficulty, and the FDIC does not know how the amount of reported modifications to borrowers experiencing financial difficulty will compare to the amount of TDRs that affected banks report over time.

In general, the FDIC continues to expect that the initial amount of modifications made to borrowers experiencing financial difficulty will be lower than previously reported TDRs. This is because under ASU 2022–02, reporting of modifications to borrowers experiencing financial difficulty should be applied prospectively and would therefore apply only to modifications made after a bank adopts the standard. However, in the long term it is possible that the amount of modifications to borrowers experiencing financial difficulty could be higher or lower than the amount of TDRs that banks would have reported prior to adoption of ASU 2022–02. Therefore, under the final rule, the underperforming assets ratio could be higher or lower due to the adoption of ASU 2022–02, and the resulting ratio may or may not affect an individual bank's assessment rate, depending on whether it is the binding ratio for the credit quality measure.

The FDIC does not have the information necessary to estimate the expected effects of the final rule to incorporate the new accounting standard into the large and highly complex bank scorecards. Analysis detailed in the notice of proposed rulemaking illustrates a range of potential outcomes based on TDRs reported as of December 31, 2021, the last quarter before FASB issued ASU 2022–02. The analysis is unchanged because some large banks may have early adopted ASU 2022–02 during 2022, so December 31, 2021, is still the last quarter all banks were required to report TDRs.

The FDIC calculated some illustrative examples of the effect on assessments if modifications made to borrowers experiencing financial difficulty are lower than certain amounts of previously reported TDRs. For example, if all large and highly complex banks had reported zero TDRs as of December 31, 2021, before FASB issued ASU 2022–02, the impact on the underperforming assets ratio would have reduced total deposit insurance assessment revenue by an annualized amount of approximately $90 million; if modifications were 50 percent lower than TDRs reported as of December 31, 2021, annualized assessments would have decreased by $52 million.

Alternatively, as an extreme and unlikely scenario, if all large and highly complex banks had reported zero TDRs during a period when overall risk in the banking industry was higher, such as December 31, 2011, the resulting underperforming assets ratio would have reduced total deposit insurance assessment revenue by an annualized amount of approximately $957 million. Between 2015 and 2019, if TDRs were zero, the resulting underperforming assets ratio would have reduced total deposit insurance assessment revenue by about $279 million annually, on average.

Over time, however, large and highly complex banks will implement ASU 2022–02 and begin to report modifications to borrowers experiencing financial difficulties. As noted above, the effect on assessments will depend on how the newly reported modifications compare to the TDRs that would have been reported under the prior accounting standard. For example, if all large and highly complex banks had reported modifications to borrowers experiencing financial difficulty that were 25 percent greater than the TDRs reported as of December 31, 2021, the impact on the underperforming assets ratio would have increased total deposit insurance assessment revenue by an annualized amount of approximately $30 million; if the modifications exceeded TDRs by 50 percent, annualized assessments would have increased by $65 million; and if the modifications exceeded TDRs by 100 percent, annualized assessments would have increased by $137 million.

The analysis presented above serves as an illustrative example of potential effects of the final rule. The analysis does not estimate potential future modifications to borrowers experiencing financial difficulty or how those amounts, once reported, will compare to previously reported TDRs for a few reasons. First, banks were granted temporary relief from reporting TDRs that were modified due to the COVID–19 pandemic, so recent reporting of TDRs is likely lower than it may otherwise have been.[24] Second, the amount of modifications or restructurings made by large or highly complex banks vary based on economic conditions and future economic conditions are uncertain. Third, as commenters noted, a restructuring of a debt constitutes a TDR if the creditor for economic or legal reasons related to the debtor's financial difficulties grants a concession to the debtor that it would not otherwise consider, while a modification to borrowers experiencing financial difficulty is not evaluated based on whether or not a concession has been granted. Finally, future Call Report revisions and instructions on how modifications to borrowers experiencing financial difficulties are required to be reported will affect the future reported amount of modifications to borrowers experiencing financial difficulty.

With regard to the higher-risk assets ratio, the effect on assessments paid by large and highly complex banks is likely to be more muted. The assessment regulations define a higher-risk C&I or consumer loan as a loan or refinance that meets certain risk criteria. The final rule will exclude modifications to borrowers experiencing financial difficulty from the definition of a refinance for purposes of the higher-risk assets ratio. As a result, if a modification to a C&I or consumer loan results in the classification of the loan as a TDR, under the current regulations, or as a modification to borrowers experiencing financial difficulty, under the final rule, a large or highly complex bank will not have to re-evaluate whether the modified loan meets the definition of a higher-risk asset.

For example, if a higher-risk C&I loan was subsequently modified as a TDR or modification to borrowers experiencing

[24] On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law. Section 4013 of the CARES Act, ''Temporary Relief From Troubled Debt Restructurings,'' provided banks the option to temporarily suspend certain requirements under U.S. GAAP related to TDRs to account for the effects of COVID–19. Division N of the Consolidated Appropriations Act, 2021 (Title V, subtitle C, section 541) was signed into law on December 27, 2020, extending the provisions in Section 4013 of the CARES Act to January 1, 2022. This relief applied to certain loans modified between March 1, 2020 and January 1, 2022.

financial difficulty, it will not be considered a refinance and, therefore, will continue to be considered a higher-risk asset. Conversely, if a C&I loan that does not meet the definition of a higher-risk asset was subsequently modified as a TDR or modification to borrowers experiencing financial difficulty, it will not be considered a refinance and, therefore, will not have to be re-evaluated to determine if it meets the definition of a higher-risk asset. The FDIC assumes that these possible outcomes are generally offsetting and this aspect of the final rule will have minimal to no effect on deposit insurance assessments for large and highly complex banks.

## VI. Alternatives Considered

The FDIC considered two reasonable and possible alternatives as described below. On balance, the FDIC believes the final rule will determine deposit insurance assessment rates for large and highly complex banks in the most appropriate, accurate, and straightforward manner.

One alternative would be to require banks to continue to report TDRs specifically for deposit insurance assessment purposes, even after they have adopted CECL and ASU 2022–02. This alternative would maintain consistency of the data used in the underperforming assets ratio and higher-risk assets ratio with prior reporting periods. However, and as one commenter noted, this alternative would impose additional reporting burden on large and highly complex banks. This alternative would also fail to recognize the potential usefulness of the new data on modifications to borrowers experiencing financial difficulty. Ultimately, the FDIC does not believe any benefits from continued reporting of TDRs expressly for assessment purposes would justify the cost to affected banks.

The FDIC also considered a second alternative: removing restructured loans from the definition of underperforming assets entirely and not incorporating the new data on modifications to borrowers experiencing financial difficulty. Similar to the first alternative, this second alternative would apply uniformly to all large and highly complex banks, regardless of their early adoption status. Both commenters supported this alternative. However, this alternative fails to recognize that modifications to borrowers experiencing financial difficulty are restructured loans and are a meaningful indicator of credit risk throughout economic cycles that should be included in credit quality measures such as the underperforming assets ratio and the higher-risk assets ratio. Failure to capture this risk in deposit insurance assessments for large and highly complex banks could adversely affect the DIF.

The FDIC believes that the new modifications data required under ASU 2022–02 will provide valuable information and would not impose additional reporting burden. Incorporating this new data in place of TDRs would be the most reasonable option to ensure that large and highly complex banks are assessed fairly and accurately.

## VII. Effective Date and Application Date

The FDIC is issuing this final rule with an effective date of January 1, 2023, and applicable to the first quarterly assessment period of 2023 (*i.e.,* January 1 through March 31, 2023, with an invoice payment date of June 30, 2023). Most institutions that have implemented CECL, will adopt FASB's ASU 2022–02 in 2023, unless an institution chooses to early adopt in 2022. Institutions (those with a calendar year fiscal year) implementing CECL on January 1, 2023, will also adopt, FASB's ASU 2022–02 at that time. Therefore, by the first quarter of 2023, ASU 2022–02 also will be in effect for most, if not all, large and highly complex banks. The FDIC believes that coordinating the assessment system amendments to conform to the new accounting standards will promote a more efficient transition and will result in affected banks reporting their data in a consistent manner based on the correct accounting concepts.

## VIII. Administrative Law Matters

### *A. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a final rule on small entities.[25] However, a regulatory flexibility analysis is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $750 million.[26] Certain types of rules, such as rules relating to rates, corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of ''rule'' for purposes of the RFA.[27] Because the final rule relates directly to the rates imposed on IDIs for deposit insurance and to the deposit insurance assessment system that measures risk and determines each bank's assessment rate, the final rule is not subject to the RFA. Nonetheless, the FDIC is voluntarily presenting information in this RFA section.

Based on Call Report data as of June 30, 2022, the FDIC insures 4,780 IDIs, of which 3,394 are defined as small entities by the terms of the RFA.[28] The final rule, however, will apply only to institutions with $10 billion or greater in total assets which, by definition, do not meet the criteria to be considered small entities for the purposes of the RFA. Therefore, no small entities will be affected by the final rule.

### *B. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.[29] The FDIC's OMB control numbers for its assessment regulations are 3064–0057, 3064–0151, and 3064–0179. The final rule does not create any new, or revise any of these existing assessment information collections pursuant to the PRA and consequently, no submissions in connection with these OMB control numbers will be made to the OMB for review. However, the final rule affects the agencies' current information collections for the Call Report (FFIEC 031 and FFIEC 041, but not FFIEC 051). The agencies' OMB control numbers for the Call Reports are: OCC OMB No. 1557–0081; Board OMB No. 7100–0036; and FDIC OMB No. 3064–0052. The changes to the Call Report forms and instructions will be addressed in a separate **Federal Register** notice.

[25] 5 U.S.C. 601 *et seq.*

[26] The SBA defines a small banking organization as having $750 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended by 87 FR 18627, effective May 2, 2022). In its determination, the SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates. *See* 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[27] 5 U.S.C. 601.

[28] FDIC Call Report data, June 30, 2022.

[29] 44 U.S.C. 3501–3521.

*C. Riegle Community Development and Regulatory Improvement Act*

Section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that the Federal banking agencies, including the FDIC, in determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on IDIs, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[30] In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[31]

The final rule will not impose additional reporting, disclosure, or other new requirements on insured depository institutions, including small depository institutions, or on the customers of depository institutions. Accordingly, section 302 of RCDRIA does not apply. The FDIC invited comments regarding the application of RCDRIA in the proposed rule, but did not receive comments on this topic. Nevertheless, the requirements of RCDRIA have been considered in setting the final effective date.

*D. Plain Language*

Section 722 of the Gramm-Leach-Bliley Act[32] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invited comment regarding the use of plain language in the proposed rule but did not receive any comments on this topic.

*E. The Congressional Review Act*

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[33] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[34]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or Local government agencies or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[35]

The OMB has determined that the final rule is a major rule for purposes of the Congressional Review Act. As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

**List of Subjects in 12 CFR Part 327**

Bank deposit insurance, Banks, Banking, Savings associations.

**Authority and Issuance**

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 327 as follows:

## PART 327—ASSESSMENTS

■ 1. The authority for 12 CFR part 327 continues to read as follows:

**Authority:** 12 U.S.C. 1813, 1815, 1817–19, 1821.

■ 2. Amend appendix A to subpart A in section IV by:

■ a. In the entries for ''Balance Sheet Liquidity Ratio,'' ''Potential Losses/Total Domestic Deposits (Loss Severity Measure),'' and ''Market Risk Measure for Highly Complex Institutions,'' redesignating footnotes 5, 6, and 7 as footnotes 6, 7, and 8, respectively;

■ b. Redesignating footnotes 5, 6, and 7 as footnotes 6, 7, and 8 at the end of the table;

■ c. Revising the entry for ''Credit Quality Measure''; and

■ d. Adding new footnote 5 at the end of the table.

The revision and addition read as follows:

**Appendix A to Subpart A of Part 327—Method To Derive Pricing Multipliers and Uniform Amount**

* * * * *

**IV. Description of Scorecard Measures**

| Scorecard measures [1] | Description |
|---|---|
| * * * * * * * | |
| Credit Quality Measure ..... | The credit quality score is the higher of the following two scores: |
| (1) Criticized and Classified Items/Tier 1 Capital and Reserves [2]. | Sum of criticized and classified items divided by the sum of Tier 1 capital and reserves. Criticized and classified items include items an institution or its primary Federal regulator have graded ''Special Mention'' or worse and include retail items under Uniform Retail Classification Guidelines, securities, funded and unfunded loans, other real estate owned (ORE), other assets, and marked-to-market counterparty positions, less credit valuation adjustments.[4] Criticized and classified items exclude loans and securities in trading books, and the amount recoverable from the U.S. Government, its agencies, or Government-sponsored enterprises, under guarantee or insurance provisions. |
| (2) Underperforming Assets/Tier 1 Capital and Reserves [2]. | Sum of loans that are 30 days or more past due and still accruing interest, nonaccrual loans, restructured loans [5] (including restructured 1–4 family loans), and ORE, excluding the maximum amount recoverable from the U.S. Government, its agencies, or government-sponsored enterprises, under guarantee or insurance provisions, divided by a sum of Tier 1 capital and reserves. |

[30] 12 U.S.C. 4802(a).

[31] 12 U.S.C. 4802(b).

[32] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

[33] 5 U.S.C. 801 *et seq.*

[34] 5 U.S.C. 801(a)(3).

[35] 5 U.S.C. 804(2).

| Scorecard measures [1] | Description |
|---|---|
| * * * * * * * | |

[1] The FDIC retains the flexibility, as part of the risk-based assessment system, without the necessity of additional notice-and-comment rulemaking, to update the minimum and maximum cutoff values for all measures used in the scorecard. The FDIC may update the minimum and maximum cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio in order to maintain an approximately similar distribution of higher-risk assets to Tier 1 capital and reserves ratio scores as reported prior to April 1, 2013, or to avoid changing the overall amount of assessment revenue collected. 76 FR 10672, 10700 (February 25, 2011). The FDIC will review changes in the distribution of the higher-risk assets to Tier 1 capital and reserves ratio scores and the resulting effect on total assessments and risk differentiation between banks when determining changes to the cutoffs. The FDIC may update the cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio more frequently than annually. The FDIC will provide banks with a minimum one quarter advance notice of changes in the cutoff values for the higher-risk assets to Tier 1 capital and reserves ratio with their quarterly deposit insurance invoice.

[2] The applicable portions of the current expected credit loss methodology (CECL) transitional amounts attributable to the allowance for credit losses on loans and leases held for investment and added to retained earnings for regulatory capital purposes pursuant to the regulatory capital regulations, as they may be amended from time to time (12 CFR part 3, 12 CFR part 217, 12 CFR part 324, 85 FR 61577 (Sept. 30, 2020), and 84 FR 4222 (Feb. 14, 2019)), will be removed from the sum of Tier 1 capital and reserves.

* * * * * * *

[4] A marked-to-market counterparty position is equal to the sum of the net marked-to-market derivative exposures for each counterparty. The net marked-to-market derivative exposure equals the sum of all positive marked-to-market exposures net of legally enforceable netting provisions and net of all collateral held under a legally enforceable CSA plus any exposure where excess collateral has been posted to the counterparty. For purposes of the Criticized and Classified Items/Tier 1 Capital and Reserves definition a marked-to-market counterparty position less any credit valuation adjustment can never be less than zero.

[5] Restructured loans include troubled debt restructurings and modifications to borrowers experiencing financial difficulty, as these terms are defined in the glossary to the Call Report, as they may be amended from time to time.

* * * * *

■ 3. Amend appendix C to subpart A by:
■ a. In section I.A.2., under the heading ''Definitions,'' revising the entry for ''Refinance''; and
■ b. In section I.A.3., revising the ''Refinance'' section preceding section I.A.4.

The revisions read as follows:

## Appendix C to Subpart A of Part 327—Description of Concentration Measures

I. * * *
A. * * *
2. * * *

**Definitions**

* * * * *

**Refinance**

For purposes of a C&I loan, a refinance includes:

(a) Replacing an original obligation by a new or modified obligation or loan agreement;

(b) Increasing the master commitment of the line of credit (but not adjusting sub-limits under the master commitment);

(c) Disbursing additional money other than amounts already committed to the borrower;

(d) Extending the legal maturity date;

(e) Rescheduling principal or interest payments to create or increase a balloon payment;

(f) Releasing a substantial amount of collateral;

(g) Consolidating multiple existing obligations; or

(h) Increasing or decreasing the interest rate.

A refinance of a C&I loan does not include a modification or series of modifications to a commercial loan other than as described above or modifications to a commercial loan that would otherwise meet this definition of refinance, but that result in the classification of a loan as a troubled debt restructuring (TDR) or a modification to borrowers experiencing financial difficulty, as these terms are defined in the glossary of the Call Report instructions, as they may be amended from time to time.

* * * * *

3. * * *

**Refinance**

For purposes of higher-risk consumer loans, a refinance includes:

(a) Extending new credit or additional funds on an existing loan;

(b) Replacing an existing loan with a new or modified obligation;

(c) Consolidating multiple existing obligations;

(d) Disbursing additional funds to the borrower. Additional funds include a material disbursement of additional funds or, with respect to a line of credit, a material increase in the amount of the line of credit, but not a disbursement, draw, or the writing of convenience checks within the original limits of the line of credit. A material increase in the amount of a line of credit is defined as a 10 percent or greater increase in the quarter-end line of credit limit; however, a temporary increase in a credit card line of credit is not a material increase;

(e) Increasing or decreasing the interest rate (except as noted herein for credit card loans); or

(f) Rescheduling principal or interest payments to create or increase a balloon payment or extend the legal maturity date of the loan by more than six months.

A refinance for this purpose does not include:

(a) A re-aging, defined as returning a delinquent, open-end account to current status without collecting the total amount of principal, interest, and fees that are contractually due, provided:

(i) The re-aging is part of a program that, at a minimum, adheres to the re-aging guidelines recommended in the interagency approved Uniform Retail Credit Classification and Account Management Policy; [12]

(ii) The program has clearly defined policy guidelines and parameters for re-aging, as well as internal methods of ensuring the reasonableness of those guidelines and monitoring their effectiveness; and

(iii) The bank monitors both the number and dollar amount of re-aged accounts, collects and analyzes data to assess the performance of re-aged accounts, and determines the effect of re-aging practices on past due ratios;

(b) Modifications to a loan that would otherwise meet this definition of refinance, but result in the classification of a loan as a TDR or modification to borrowers experiencing financial difficulty;

(c) Any modification made to a consumer loan pursuant to a government program, such as the Home Affordable Modification Program or the Home Affordable Refinance Program;

(d) Deferrals under the Servicemembers Civil Relief Act;

(e) A contractual deferral of payments or change in interest rate that is consistent with the terms of the original loan agreement (*e.g.,* as allowed in some student loans);

(f) Except as provided above, a modification or series of modifications to a closed-end consumer loan;

(g) An advance of funds, an increase in the line of credit, or a change in the interest rate that is consistent with the terms of the loan agreement for an open-end or revolving line of credit (*e.g.,* credit cards or home equity lines of credit);

(h) For credit card loans:

(i) Replacing an existing card because the original is expiring, for security reasons, or because of a new technology or a new system;

(ii) Reissuing a credit card that has been temporarily suspended (as opposed to closed);

(iii) Temporarily increasing the line of credit;

(iv) Providing access to additional credit when a bank has internally approved a higher credit line than it has made available to the customer; or

(v) Changing the interest rate of a credit card line when mandated by law (such as in the case of the Credit CARD Act).

* * * * *

[12] Among other things, for a loan to be considered for re-aging, the following must

be true: (1) The borrower must have demonstrated a renewed willingness and ability to repay the loan; (2) the loan must have existed for at least nine months; and (3) the borrower must have made at least three consecutive minimum monthly payments or the equivalent cumulative amount.

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on October 18, 2022.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2022–22986 Filed 10–20–22; 11:15 am]

**BILLING CODE 6714–01–P**


# FEDERAL REGISTER

Vol. 87 Monday,
No. 204 October 24, 2022

Part V

## The President

Federal Register
Vol. 87, No. 204
Monday, October 24, 2022

# Presidential Documents

**Title 3—**

## The President

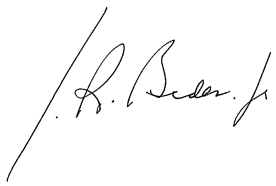
**Memorandum of October 14, 2022**

## Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

**Memorandum for the Secretary of State**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $725 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
*Washington, October 14, 2022*

[FR Doc. 2022–23260
Filed 10–21–22; 11:15 am]
Billing code 4710–10–P

# Presidential Documents

**Presidential Determination No. 2023–02 of October 14, 2022**

## Presidential Determination With Respect to the Efforts of Foreign Governments Regarding Trafficking in Persons

**Memorandum for the Secretary of State**

Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107) (the ''Act''), as amended, I hereby determine as follows:

As provided for in section 110(d)(1)(A)(i) of the Act, that the United States will not provide nonhumanitarian, nontrade-related assistance to the Governments of Afghanistan, Burma, Guinea-Bissau, Iran, the People's Republic of China (PRC), and South Sudan for Fiscal Year (FY) 2023 until such governments comply with the Act's minimum standards or make significant efforts to bring themselves into compliance with the minimum standards;

As provided for in section 110(d)(1)(A)(ii) of the Act, that the United States will not provide nonhumanitarian, nontrade-related assistance to, or allow funding for participation in educational and cultural exchange programs by officials or employees of, the Governments of Belarus, Cuba, the Democratic People's Republic of Korea (DPRK), Eritrea, Macau (Special Administrative Region of the PRC), Nicaragua, Russia, and Syria for FY 2023 until such governments comply with the Act's minimum standards or make significant efforts to bring themselves into compliance with the minimum standards;

As provided for in section 110(d)(1)(B) of the Act, I hereby instruct the United States Executive Director of each multilateral development bank, as defined in the Act, and of the International Monetary Fund to vote against and use best efforts to deny any loan or other utilization of the funds of the respective institution (other than for humanitarian assistance; for trade-related assistance; or for development assistance that directly addresses basic human needs, is not administered by the government of such country, and confers no benefit to that government) for the Governments of Belarus, Burma, Cuba, the DPRK, Eritrea, Iran, Macau (Special Administrative Region of the PRC), Nicaragua, the PRC, Russia, South Sudan, and Syria for FY 2023 until such governments comply with the Act's minimum standards or make significant efforts to bring themselves into compliance with the minimum standards;

Consistent with section 110(d)(4) of the Act, I determine that the provision of all programs, projects, activities, and funding for educational and cultural exchange programs described in sections 110(d)(1)(A) and 110(d)(1)(B) of the Act to Brunei, Cambodia, Malaysia, Turkmenistan, Venezuela, and Vietnam, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Consistent with section 110(d)(4) of the Act, I determine that providing the assistance described in section 110(d)(1)(B) of the Act to Afghanistan and Guinea-Bissau would promote the purposes of the Act or is otherwise in the national interest of the United States;

Consistent with section 110(d)(4) of the Act, I determine that a partial waiver with respect to Belarus, Eritrea, Macau (Special Administrative Region of the PRC), and Russia to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

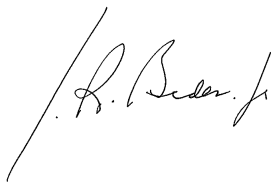
Consistent with section 110(d)(4) of the Act, with respect to Afghanistan, I determine that a partial waiver of the restriction described in section 110(d)(1)(A)(i) of the Act to allow for Economic Support Fund (ESF) and Global Health Programs (GHP) assistance would promote the purposes of the Act or is otherwise in the national interest of the United States;

Consistent with section 110(d)(4) of the Act, with respect to Guinea-Bissau, I determine that a partial waiver of the restriction described in section 110(d)(1)(A)(i) of the Act to allow for International Military Education and Training (IMET); Nonproliferation, Anti-terrorism, Demining, and Related Programs–Conventional Weapons Destruction (NADR–CWD); Development Assistance (DA); ESF; and GHP assistance would promote the purposes of the Act or is otherwise in the national interest of the United States; and

Consistent with section 110(d)(4) of the Act, with respect to South Sudan, I determine that a partial waiver of the restriction described in section 110(d)(1)(A)(i) of the Act to allow for GHP assistance would promote the purposes of the Act or is otherwise in the national interest of the United States.

In addition, with respect to the Governments of Curacao and Sint Maarten, consistent with the United States Government's firm stand against human trafficking, and until such governments take steps consistent with compliance with the minimum standards of the Act or make significant efforts to do so, I hereby: (i) direct that executive departments and agencies shall not provide nonhumanitarian, nontrade-related foreign assistance, as described in section 110(d)(1)(A) of the Act, to the Governments of Curacao and Sint Maarten; (ii) instruct the United States Executive Director of each multilateral development bank, as defined in the Act, and of the International Monetary Fund to vote against and use best efforts to deny any loan or other utilization of the funds of the respective institution (other than for humanitarian assistance, for trade-related assistance, or for development assistance that directly addresses basic human needs, is not administered by such government, and confers no benefit to that government) to Curacao and Sint Maarten, as described in section 110(d)(1)(B) of the Act; and (iii) direct that funding for participation by officials or employees of the Governments of Curacao and Sint Maarten in educational and cultural exchange programs shall continue to be permitted in FY 2023, consistent with the foreign policy and all applicable laws of the United States.

You are authorized and directed to submit this determination, the certification required by section 110(e) of the Act, and the Memorandum of Justification, on which I have relied, to the Congress, and to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
*Washington, October 14, 2022*

[FR Doc. 2022–23262
Filed 10–21–22; 11:15 am]
Billing code 4710–10–P

# Reader Aids

**Federal Register**

Vol. 87, No. 204

Monday, October 24, 2022

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6050** |

### ELECTRONIC RESEARCH

#### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

#### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

## FEDERAL REGISTER PAGES AND DATE, OCTOBER

59633–60056 ..... 3
60057–60240 ..... 4
60241–60540 ..... 5
60541–60866 ..... 6
60867–61216 ..... 7
61217–61440 ..... 11
61441–61948 ..... 12
61949–62282 ..... 13
62283–62720 ..... 14
62721–62976 ..... 17
62977–63380 ..... 18
63381–63660 ..... 19
63661–63932 ..... 20
63933–64148 ..... 21
64149–64364 ..... 24

## CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 2 CFR

700 ..... 60059

### 3 CFR

**Proclamations:**
10456 ..... 60241
10457 ..... 60243
10458 ..... 60245
10459 ..... 60249
10460 ..... 60251
10461 ..... 60253
10462 ..... 60257
10463 ..... 60259
10464 ..... 60261
10465 ..... 60263
10466 ..... 61215
10467 ..... 61441
10468 ..... 61443
10469 ..... 61949
10470 ..... 61951
10471 ..... 61953
10472 ..... 61955
10473 ..... 61957
10474 ..... 62299
10475 ..... 62301
10476 ..... 63381
10477 ..... 63393
10478 ..... 63395
10479 ..... 63397
10480 ..... 63661

**Executive Orders:**
8809 (amended by 14085) ..... 60541
9158 (amended by 14085) ..... 60541
10694 (amended by 14085) ..... 60541
11046 (amended by 14085) ..... 60541
11545 (amended by 14085) ..... 60541
13830 (amended by 14085) ..... 60541
14084 ..... 60535
14085 ..... 60541
14086 ..... 62283
14087 ..... 63399

**Administrative Orders:**
Memorandums:
Memorandum of September 30, 2022 ..... 60539
Memorandum of October 3, 2022 ..... 60545
Memorandum of October 4, 2022 ..... 61947
Notices:
Notice of October 12, 2022 ..... 62279
Notice of October 12, 2022 ..... 62281
Presidential Determinations:
No. 2022–24 of September 23, 2022 ..... 60057
No. 2022–25 of September 27, 2022 ..... 60547
No. 2023–01 of October 3, 2022 ..... 61943

### 5 CFR

Ch. 18 ..... 63401

### 7 CFR

272 ..... 59633
273 ..... 59633
1740 ..... 63419

**Proposed Rules:**
205 ..... 61268
905 ..... 63431
922 ..... 63433

### 8 CFR

214 ..... 61959, 62721

### 9 CFR

327 ..... 63420
351 ..... 63420
354 ..... 63420
381 ..... 63420
500 ..... 63420
590 ..... 63420
592 ..... 63420

**Proposed Rules:**
130 ..... 59731
201 ..... 60010

### 10 CFR

429 ..... 63588, 63860
430 ..... 60867
431 ..... 63588, 63860

**Proposed Rules:**
429 ..... 63324, 63356
430 ..... 60941, 63324, 63356
431 ..... 60555, 60942, 62038

### 12 CFR

34 ..... 63663
201 ..... 60868
204 ..... 60869
213 ..... 63666
226 ..... 63663, 63671
235 ..... 61217
327 ..... 64313, 64348
1013 ..... 63666
1022 ..... 60265
1026 ..... 63663, 63671
1102 ..... 60870

**Proposed Rules:**
Ch. II ..... 64170
234 ..... 60314
Ch. III ..... 64170

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List October 20, 2022**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free email notification service of newly enacted public laws. To subscribe, go to *https://portalguard.gsa.gov/__*layouts/PG/register.aspx.

**Note:** This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.