



# FEDERAL REGISTER

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Title 3—

Notice of March 5, 2024

The President

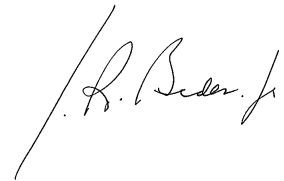
## Continuation of the National Emergency With Respect to Venezuela

On March 8, 2015, the President issued Executive Order 13692, declaring a national emergency with respect to the situation in Venezuela, including the Government of Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protesters, as well as the exacerbating presence of significant government corruption.

The President took additional steps pursuant to this national emergency in Executive Order 13808 of August 24, 2017; Executive Order 13827 of March 19, 2018; Executive Order 13835 of May 21, 2018; Executive Order 13850 of November 1, 2018; Executive Order 13857 of January 25, 2019; and Executive Order 13884 of August 5, 2019.

The circumstances, as described in Executive Order 13692 and subsequent Executive Orders issued with respect to Venezuela, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13692.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,  
March 5, 2024.



# Rules and Regulations

Federal Register

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

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

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 127

RIN 3245–AI11

#### Providing Discretion To Extend Women-Owned Small Business Program Recertification Where Appropriate

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule contains amendments to the regulations governing the Women-Owned Small Business (WOSB) program. The U.S. Small Business Administration (SBA) is revising its regulations to specifically recognize that the SBA Administrator may extend the date of WOSB recertification where appropriate.

**DATES:** This interim final rule is effective March 7, 2024. Comments must be received on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by RIN 3245–AI11, and/or Docket Number SBA–2–24–0001 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov> and follow the instructions for submitting comments.
- *Mail (for paper, disk, or CD-ROM submissions):* Harry T. Alexander Jr., Business Opportunity Specialist, Office of Contracting Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the comments to Harry T. Alexander Jr. and highlight the

information that you consider to be CBI and explain why you believe this information should be held confidential.

**FOR FURTHER INFORMATION CONTACT:**

Harry T. Alexander Jr., U.S. Small Business Administration, Office of Contracting Assistance, 409 Third Street SW, Washington, DC 20416; (202) 619–0314, [harry.alexanderjr@sba.gov](mailto:harry.alexanderjr@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 127.400 of SBA's WOSB regulations specifies that any concern seeking to remain a certified WOSB or Economically Disadvantaged Women-Owned Small Business (EDWOSB) must undergo a program examination every three years. Currently, there is no discretion in postponing recertification beyond the three-year anniversary date of a firm's WOSB or EDWOSB certification. SBA believes that SBA should have the discretion to postpone a firm's recertification date in appropriate circumstances. SBA is not seeking to eliminate the requirement that a firm must demonstrate that it continues to be eligible for the WOSB program or that SBA must recertify the firm as eligible. This change would merely recognize that there may be appropriate circumstances in which SBA may permit recertification to occur beyond three years from the date of the last certification. This change will not have substantive effect on eligibility for or the award of contracts set-aside or reserved for WOSBs/EDWOSBs.

Regardless of whether a recertification has recently occurred or not, a firm must qualify as a WOSB/EDWOSB on the date that it submits its initial offer, which includes price, for a WOSB/EDWOSB contract, reserve, or order issued under a contract that was not itself set-aside or reserved for WOSBs or EDWOSBs. Any interested party may protest the status of a WOSB or EDWOSB who has been identified as the apparent successful offeror. If a protested firm does not continue to qualify as a WOSB/EDWOSB as of the date of its initial offer which includes price, SBA will find the firm ineligible for award. This rule does not change or affect that process in any way.

To effectuate the discretion identified above, this rule adds a new § 127.400(c), which gives specific authority to SBA to postpone the date of WOSB/EDWOSB recertification where appropriate circumstances exist. SBA's Administrator, or designee, will have

the sole discretion in determining whether such circumstances exist and there will be no authority to appeal or challenge that decision.

**Compliance With Executive Orders 12866, 12988, 13132, 13563, the Congressional Review Act (5 U.S.C. 801–808), the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)**

#### *Executive Order 12866*

The Office of Management and Budget has determined that this rule is not a “significant regulatory action” under Executive Order No. 12866. This rule merely provides specific discretion to SBA's Administrator or designee to postpone the date of WOSB recertification where appropriate. It does not make any substantive changes to the WOSB program.

As such, the rule has no effect on the amount or dollar value of any Federal contract requirements or of any financial assistance provided through SBA. Therefore, the rule is not likely to have an annual economic effect of \$200 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy. In addition, this rule does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of entitlements, grants, user fees, loan programs, or the rights and obligations of such recipients, nor raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

#### *Executive Order 13563*

Executive Order 13563, Improving Regulation and Regulatory Review (January 18, 2011), requires agencies to adopt regulations through a process that involves public participation, and to the extent feasible, base regulations on the open exchange of information and perspectives from affected stakeholders and the public as a whole. SBA has developed this rule in a manner consistent with these requirements, and the public will have the opportunity to provide comments following the publication of this rule.

*Executive Order 12988*

This action meets applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

*Executive Order 13132*

This rule does not have Federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As such, it does not warrant the preparation of a Federalism Assessment.

*Congressional Review Act (5 U.S.C. 801–808)*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a “major 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. 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. 804(2).

*Paperwork Reduction Act*

The SBA has determined that this rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 601–612, requires Federal Government agencies to prepare an initial regulatory flexibility analysis (IRFA) to consider the potential impact of the regulations on small entities. Small entities include small businesses, small not-for-profit organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing a regulatory flexibility analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

This interim final rule provides discretion to SBA to postpone the date on which a firm must undergo a

program examination and be recertified as an eligible WOSB or EDWOSB. Currently, SBA or a third-party certifier will conduct a program examination three years after the concern’s initial WOSB or EDWOSB certification. This rule merely allows SBA to postpone that program examination and recertification process in appropriate, extraordinary circumstances. As such, SBA does not anticipate that this rule will have a significant economic impact on any small business. Therefore, the Administrator of SBA certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 13 CFR Part 127**

Government contracts, Reporting and recordkeeping requirements, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA amends 13 CFR part 127 as follows:

**PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM**

■ 1. The authority citation for part 127 continues to read as follows:

**Authority:** 15 U.S.C. 632, 634(b)(6), 637(m), 644 and 657r.

■ 2. Amend § 127.400 by adding paragraph (c) to read as follows:

**§ 127.400 How does a concern maintain its WOSB or EDWOSB certification?**

\* \* \* \* \*

(c) The SBA Administrator or designee may postpone the program examination and recertification process in appropriate, extraordinary circumstances.

**Isabella Casillas Guzman,**

*Administrator.*

[FR Doc. 2024–04854 Filed 3–6–24; 8:45 am]

**BILLING CODE 8026–03–P**

**ACTION:** Final rule; withdrawal.

**SUMMARY:** This action withdraws the final rule published in the **Federal Register** on January 11, 2024, amending Very High Frequency Omnidirectional Range (VOR) Federal Airway V–4 in the vicinity of Burley, ID. Unanticipated issues affecting the completion of this action have made this withdrawal action necessary.

**DATES:** Effective date 0901 UTC, March 7, 2024, the final rule published on January 11, 2024 (89 FR 1801) is withdrawn.

**FOR FURTHER INFORMATION CONTACT:**

Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

**SUPPLEMENTARY INFORMATION:****History**

The FAA published a final rule in the **Federal Register** for Docket No. FAA–2023–2453 (89 FR 1801, January 11, 2024) amending VOR Federal Airway V–4 in the vicinity of Burley, ID. The effective date of that rule is March 21, 2024. The final rule incorrectly listed the airspace docket number as 22–ANM–57. The correct docket number is 23–ANM–57. After publishing the final rule, the FAA discovered unintended consequences to Instrument Flight Rules (IFR) procedures caused by the airway amendment. As a result, the FAA is withdrawing this action until the amendments to the airway and IFR procedures can be published concurrently. The FAA plans to publish another final rule with a new airspace docket number in the future to amend VOR Federal Airway V–4.

**The Withdrawal**

■ Accordingly, pursuant to the authority delegated to me, the final rule published in the **Federal Register** on January 11, 2024 (89 FR 1801), FR Doc. 2024–00071, is hereby withdrawn.

Issued in Washington, DC, on February 29, 2024.

**Frank Lias,**

*Manager, Rules and Regulations Group.*

[FR Doc. 2024–04758 Filed 3–6–24; 8:45 am]

**BILLING CODE 4910–13–P**

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

[Docket No. FAA–2023–2453; Airspace Docket No. 23–ANM–57]

**RIN 2120–AA66**

**Amendment of Very High Frequency Omnidirectional Range Federal Airway V–4 in the Vicinity of Burley, ID**

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

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

[Docket No. FAA–2023–2341; Airspace  
Docket No. 23–AEA–26]

RIN 2120–AA66

**Amendment of Class E Airspace;  
Ebensburg, PA**

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace at Ebensburg, PA. This action is the result of an airspace review conducted as part of the decommissioning of the Revloc very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database. This action brings the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

**DATES:** Effective 0901 UTC, May 16, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

**FOR FURTHER INFORMATION CONTACT:** 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 amends the Class E airspace extending upward from 700 feet above the surface at Ebensburg Airport, Ebensburg, PA, to support IFR operations at this airport.

**History**

The FAA published an NPRM for Docket No. FAA–2023–2431 in the **Federal Register** (88 FR 88279; December 21, 2023) proposing to amend the Class E airspace at Ebensburg, PA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

**Incorporation by Reference**

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

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

**The Rule**

This amendment to 14 CFR part 71 modifies the Class E airspace extending upward from 700 feet above the surface to within an 8.1-mile (increased from a 6.4-mile) radius of Ebensburg Airport, Ebensburg, PA; adds an extension within 4 miles each side of the 237° bearing from the airport extending from the 8.1-mile radius to 11.3 miles west of the airport; removes the exclusion area as it is no longer required; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

**Regulatory Notices and Analyses**

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

**Environmental Review**

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

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

Airspace, Incorporation by reference, Navigation (air).

**The Amendment**

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

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

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

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

**§ 71.1 [Amended]**

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

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

\* \* \* \* \*

**AEA PA E5 Ebensburg, PA [Amended]**

Ebensburg Airport, PA

(Lat 40°27'41" N, long 78°46'31" W)

That airspace extending upward from 700 feet above the surface within an 8.1-mile radius of Ebensburg Airport; and within 4 miles each side of the 237° bearing from the airport extending from the 8.1-mile radius to 11.3 miles west of the airport.

\* \* \* \* \*

Issued in Fort Worth, Texas, on March 4, 2024.

**Martin A. Skinner,**

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

[FR Doc. 2024-04826 Filed 3-6-24; 8:45 am]

**BILLING CODE 4910-13-P****DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2023-2432; Airspace  
Docket No. 23-AGL-39]

**RIN 2120-AA66****Amendment of Class E Airspace;  
Mankato, MN**

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace at Mankato, MN. This action is the result of an airspace review conducted as part of the decommissioning of the Mankato very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name of an airport is also being updated to coincide with the FAA's aeronautical database. This action brings the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

**DATES:** Effective 0901 UTC, May 16, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed

online at [www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

**FOR FURTHER INFORMATION CONTACT:**

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 amends the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Mankato Regional Airport, Mankato, MN, to support IFR operations at this airport.

**History**

The FAA published an NPRM for Docket No. FAA-2023-2432 in the **Federal Register** (88 FR 88284; December 21, 2023) proposing to amend the Class E airspace at Mankato, MN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received, however it did not pertain to the action so no response is provided.

**Incorporation by Reference**

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

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

**Differences From the NPRM**

Subsequent to publication of the NPRM, the FAA discovered two typographical errors in the Class E airspace extending upward from 700 feet above the surface airspace legal description. The geographic coordinates for the Mankato RGNL: RWY 33-LOC should have been (Lat 44°14'09" N, long 93°55'35" W) vice (Lat 44°14'22" N, long 93°55'35" W). And ". . . extending from the 6.77-mile radius . . ." should have been ". . . extending from the 6.7-mile radius . . ." Those errors have been corrected in this action.

**The Rule**

This amendment to 14 CFR part 71:

Modifies the Class E surface airspace at Mankato Regional Airport, Mankato, MN, by removing the Mankato VOR/DME and associated extensions from the airspace legal description; and replaces the outdated terms "Notice to Airmen" and "Airport Facility/Directory" with "Notice to Air Missions" and "Chart Supplement";

And modifies the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile (decreased from a 7-mile) radius of Mankato Regional Airport; removes the extensions to the northeast and north of the airport from the airspace legal description as they are no longer needed; adds an extension 1.9 miles each side of the 155° bearing from the Mankato RGNL: RWY 33-LOC extending from the 6.7-mile radius to 11.1 miles southeast of the airport; adds an extension 2 miles each side of the 227° bearing from the Mankato Regional Airport extending from the 6.7-mile radius to 11 miles southwest of the airport; and updates the name of Mayo Clinic Health System-Mankato (previously Immanuel-St. Joseph's Hospital) to coincide with the FAA's aeronautical database.

**Regulatory Notices and Analyses**

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

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

#### Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

#### The Amendment

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

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

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

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

##### § 71.1 [Amended]

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

*Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.*

\* \* \* \* \*

##### AGL MN E2 Mankato, MN [Amended]

Mankato Regional Airport, MN  
(Lat 44°13'22" N, long 93°55'10" W)

Within a 4.2-mile radius of Mankato Regional Airport. This Class E airspace is effective during the 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.

\* \* \* \* \*

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

\* \* \* \* \*

##### AGL MN E5 Mankato, MN [Amended]

Mankato Regional Airport, MN  
(Lat 44°13'22" N, long 93°55'10" W)  
Mankato RGNL: RWY 33–LOC  
(Lat 44°14'09" N, long 93°55'35" W)  
Mayo Clinic Health Systems–Mankato, MN,  
Point In Space Coordinates  
(Lat 44°09'48" N, long 93°57'40" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Mankato Regional Airport; and within 1.9 miles each side of the 155° bearing from the Mankato RGNL: RWY 33–LOC extending from the 6.7-mile radius to 11.1 miles southeast of Mankato Regional Airport; and within 2 miles each side of the 227° bearing from the Mankato Regional Airport extending from the 6.7-mile radius to 11 miles southwest of the Mankato Regional Airport; and within a 6-mile radius of the point in space serving Mayo Clinic Health Systems–Mankato.

\* \* \* \* \*

Issued in Fort Worth, Texas, on March 4, 2024.

**Martin A. Skinner,**

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

[FR Doc. 2024–04824 Filed 3–6–24; 8:45 am]

**BILLING CODE 4910–13–P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2023–2429; Airspace  
Docket No. 23–AGL–37]

**RIN 2120–AA66**

#### Amendment of Class D and Class E Airspace; Anderson, IN

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class D and Class E airspace at Anderson, IN. This action is the result of an airspace review conducted as part of the decommissioning of the Muncie very high frequency omnidirectional range (VOR) as part of the VOR Minimum Operating Network (MON) Program. The name of the airport is also being updated to coincide with the FAA’s aeronautical database. This action brings the airspace into compliance with FAA orders to support instrument flight rule (IFR) operations.

**DATES:** Effective 0901 UTC, May 16, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

**FOR FURTHER INFORMATION CONTACT:** 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 amends the Class D airspace and the Class E airspace extending upward from 700 feet above the surface at Anderson Municipal Airport–Darlington Field, Anderson, IN, to support IFR operations at this airport.

##### History

The FAA published an NPRM for Docket No. FAA–2023–2349 in the **Federal Register** (88 FR 87730; December 19, 2023) proposing to amend the Class D and Class E airspace at Anderson, IN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

##### Incorporation by Reference

Class D and E airspace designations are published in paragraphs 5000 and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points,

which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. FAA Order JO 7400.11H is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

### The Rule

This amendment to 14 CFR part 71: Modifies the Class D airspace to within a 4-mile (decreased from a 4.4-mile) radius of the Anderson Municipal Airport-Darlington Field, Anderson, IN; updates the name (previously Anderson Municipal Airport) of the airport to coincide with the FAA's aeronautical database; and updates the outdated terms "Notice to Airmen" and "Airport Facility/Directory" to "Notice to Air Missions" and "Chart Supplement"; And modifies the Class E airspace extending upward from 700 feet above the surface at Anderson Municipal Airport-Darlington Field by updating the name (previously Anderson Municipal Airport) to coincide with the FAA's aeronautical database.

### Regulatory Notices and Analyses

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

### Environmental Review

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

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

### Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

### The Amendment

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

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

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

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

#### § 71.1 [Amended]

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

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

#### AGL IN D Anderson, IN [Amended]

Anderson Municipal Airport-Darlington Field, IN  
(Lat 40°06'31" N, long 85°36'47" W)

That airspace extending upward from the surface to and including 3,400 feet MSL within a 4-mile radius of Anderson Municipal Airport-Darlington Field. This Class D airspace area is effective during the 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.

\* \* \* \* \*

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

\* \* \* \* \*

#### AGL IN E5 Anderson, IN [Amended]

Anderson Municipal Airport-Darlington Field, IN  
(Lat 40°06'31" N, long 85°36'47" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Anderson Municipal Airport-Darlington Field.

Issued in Fort Worth, Texas, on March 4, 2024.

**Martin A. Skinner,**

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

[FR Doc. 2024–04825 Filed 3–6–24; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### 31 CFR Part 587

### Publication of Russian Harmful Foreign Activities Sanctions Regulations Determinations.

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Publication of two determinations.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two determinations issued pursuant to a March 11, 2022 Executive Order, as amended on December 22, 2023. The determinations were previously issued on OFAC's website.

**DATES:** The determinations pursuant to Executive Order 14068, as amended, were issued on February 8, 2024. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Compliance, 202–622–2490.

### SUPPLEMENTARY INFORMATION:

#### Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: <https://ofac.treasury.gov>.

#### Background

On March 11, 2022, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), issued Executive Order (E.O.) 14068, "Prohibiting Certain Imports, Exports, and New Investment With Respect to Continued Russian Federation Aggression" (87 FR 14381, March 15, 2022). Among other prohibitions, E.O. 14068 section 1(a)(i) prohibits the importation into the United States of the following products of Russian Federation origin: fish, seafood, and preparations thereof; alcoholic beverages; non-industrial diamonds; and any other products of Russian Federation origin as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce.

On December 22, 2023, the President, invoking the authority of, *inter alia*, IEEPA, issued E.O. 14114, "Taking Additional Steps With Respect to the

Russian Federation's Harmful Activities" (88 FR 89271, December 26, 2023). Among other things, E.O. 14114 amends E.O. 14068 by striking paragraph (a)(i) of section 1 and inserting, in lieu thereof, new language in subsections (a)(i)(A) through (D).

Section 1(a)(i)(A) of E.O. 14068 as amended prohibits the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of the following products of Russian Federation origin: fish, seafood, and preparations thereof; alcoholic beverages; non-industrial diamonds; and any other products of Russian Federation origin, as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce.

Section 1(a)(i)(B) of E.O. 14068 as amended prohibits the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of categories of any of the specified products as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Commerce, and the Secretary of Homeland Security, that were mined, extracted, produced, or manufactured wholly or in part in the Russian Federation, or harvested in waters under the jurisdiction of the Russian Federation or by Russia-flagged vessels, notwithstanding whether such products have been incorporated or substantially transformed into other products outside of the Russian Federation. The products subject to section 1(a)(i)(B) include fish, seafood, and preparations thereof; diamonds; and any other such products as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Commerce, and the Secretary of Homeland Security.

Section 1(a)(i)(D) of E.O. 14068 as amended prohibits the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of products subject to the prohibitions of sections 1(a)(i)(A) through (C) of E.O. 14068 as amended that transited through or were exported from or by the Russian Federation, as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Commerce, and the Secretary of Homeland Security.

#### *Determination Pursuant to Section 1(a)(i)(B) of E.O. 14068*

On February 8, 2024, pursuant to delegated authority, the Deputy Director of OFAC, in consultation with the Department of State, the Department of Commerce, and the Department of Homeland Security, issued "Determination Pursuant to Section 1(a)(i)(B) of Executive Order 14068", which determined that the prohibitions in section 1(a)(i)(B) of E.O. 14068 as amended shall apply to certain non-industrial diamonds that were mined, extracted, produced, or manufactured wholly or in part in the Russian Federation.

#### *Determinations Pursuant to Sections 1(a)(i)(A) and 1(a)(i)(D) of E.O. 14068*

Also on February 8, 2024, pursuant to delegated authority, the Deputy Director of OFAC issued "Determinations Pursuant to Sections 1(a)(i)(A) and 1(a)(i)(D) of Executive Order 14068" containing two determinations. First, pursuant to delegated authority, and in consultation with the Department of State and the Department of Commerce, the Deputy Director determined that the prohibitions in section 1(a)(i)(A) of E.O. 14068 as amended shall apply to diamond jewelry and unsorted diamonds of Russian Federation origin. Second, pursuant to delegated authority, and in consultation with the Department of State, the Department of Commerce, and the Department of Homeland Security, the Deputy Director determined the prohibitions described in section 1(a)(i)(D) of E.O. 14068 as amended shall apply to diamond jewelry and unsorted diamonds that were exported from the Russian Federation.

Each determination was made available on OFAC's website (<https://ofac.treasury.gov>) when it was issued. The text of these determinations is below.

#### **Determination Pursuant to Section 1(a)(i)(B) of Executive Order 14068**

##### **Prohibitions Related to Imports of Certain Categories of Diamonds**

Pursuant to sections 1(a)(i)(B), 1(b), and 5 of Executive Order (E.O.) 14068 of March 11, 2022 ("Prohibiting Certain Imports, Exports, and New Investment With Respect to Continued Russian Federation Aggression"), as amended by E.O. 14114 of December 22, 2023 ("Taking Additional Steps With Respect to the Russian Federation's Harmful Activities"), and 31 CFR 587.802, and in consultation with the Department of State, the Department of Commerce, and the Department of Homeland Security, I hereby determine that the prohibitions in section 1(a)(i)(B) of E.O. 14068 shall apply to the following categories of diamonds that were

mined, extracted, produced, or manufactured wholly or in part in the Russian Federation, notwithstanding whether such diamonds have been substantially transformed into other products outside of the Russian Federation:

(1) effective March 1, 2024, non-industrial diamonds with a weight of 1.0 carat or greater; and

(2) effective September 1, 2024, non-industrial diamonds with a weight of 0.5 carats or greater.

As a result, the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of such non-industrial diamonds is prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control.

Lisa M. Palluconi,  
Deputy Director, Office of Foreign Assets Control.

February 8, 2024.

#### **OFFICE OF FOREIGN ASSETS CONTROL**

##### **Determinations Pursuant to Sections 1(a)(i)(A) and 1(a)(i)(D) of Executive Order 14068**

##### **Prohibitions Related to Imports of Diamond Jewelry and Unsorted Diamonds of Russian Federation Origin and Diamond Jewelry and Unsorted Diamonds Exported From the Russian Federation**

Pursuant to sections 1(a)(i)(A), 1(b), and 5 of Executive Order (E.O.) 14068 of March 11, 2022 ("Prohibiting Certain Imports, Exports, and New Investment With Respect to Continued Russian Federation Aggression"), as amended by E.O. 14114 of December 22, 2023 ("Taking Additional Steps With Respect to the Russian Federation's Harmful Activities"), and 31 CFR 587.802, and in consultation with the Department of State and the Department of Commerce, I hereby determine that the prohibitions in section 1(a)(i)(A) of E.O. 14068 shall apply to the following products of Russian Federation origin: diamond jewelry and unsorted diamonds.

Pursuant to sections 1(a)(i)(D), 1(b), and 5 of E.O. 14068 and 31 CFR 587.802, and in consultation with the Department of State, the Department of Commerce, and the Department of Homeland Security, I hereby determine that the prohibitions in section 1(a)(i)(D) of E.O. 14068 shall apply to the following products that were exported from the Russian Federation: diamond jewelry and unsorted diamonds.

As a result, the importation and entry into the United States, including importation for admission into a foreign trade zone located in the United States, of diamond jewelry and unsorted diamonds of Russian Federation origin and diamond jewelry and unsorted diamonds exported from the Russian Federation is prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control.

This determination shall take effect on March 1, 2024.

Lisa M. Palluconi,



Deputy Director, Office of Foreign Assets Control.

February 8, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2024-04855 Filed 3-6-24; 8:45 am]

BILLING CODE 4810-AL-P

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Part 588

#### Publication of Western Balkans Stabilization Regulations Web General Licenses 2 and 3

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Publication of Web General Licenses.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two general licenses (GLs) issued pursuant to the Western Balkans Stabilization Regulations: GLs 2 and 3, each of which was previously made available on OFAC's website.

**DATES:** GL 2 and GL 3 were issued on November 16, 2023. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202-622-2480; Assistant Director for Regulatory Affairs, 202-622-4855; or Assistant Director for Compliance, 202-622-2490.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: <https://ofac.treasury.gov>.

##### Background

On November 16, 2023, OFAC issued GLs 2 and 3 to authorize certain transactions otherwise prohibited by the Western Balkans Stabilization Regulations, 31 CFR part 588. Each GL was made available on OFAC's website (<https://ofac.treasury.gov>) when it was issued. GL 2 has an expiration date of March 15, 2024. The text of these GLs is provided below.

#### OFFICE OF FOREIGN ASSETS CONTROL

Western Balkans Stabilization Regulations

#### 31 CFR Part 588

##### GENERAL LICENSE NO. 2

##### Authorizing the Wind Down of Transactions Involving Orka Holding AD

(a) Except as provided in paragraph (b) of this general license, all transactions prohibited by the Western Balkans Stabilization Regulations (WBSR), 31 CFR part 588, that are ordinarily incident and necessary to the wind down of any transaction involving Orka Holding AD, or any entity in which Orka Holding AD owns, directly or indirectly, a 50 percent or greater interest, are authorized through 12:01 a.m. eastern daylight time, March 15, 2024, provided that any payment to a blocked person is made into a blocked account in accordance with the WBSR.

(b) This general license does not authorize any transactions otherwise prohibited by the WBSR, including transactions involving any person blocked pursuant to the WBSR other than the blocked persons described in paragraph (a) of this general license, unless separately authorized.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: November 16, 2023.

#### OFFICE OF FOREIGN ASSETS CONTROL

##### Western Balkans Stabilization Regulations

#### 31 CFR part 588

##### GENERAL LICENSE NO. 3

##### Authorizing Certain Transactions Related to Agricultural Commodities, Medicine, Medical Devices, Replacement Parts and Components, Software Updates, or Medical Prevention, Diagnosis, or Treatment, or Clinical Trials Involving Orka Holding AD

(a) Except as provided in paragraph (c) of this general license, all transactions prohibited by the Western Balkans Stabilization Regulations (WBSR), 31 CFR part 588, involving Orka Holding AD, or any entity in which Orka Holding AD owns, directly or indirectly, individually or in the aggregate, a 50 percent or greater interest, related to the following are authorized: (1) the production, manufacturing, sale, transport, or provision of agricultural commodities, agricultural equipment, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices; (2) the prevention, diagnosis, or treatment of any disease or medical condition; or (3) the conducting of clinical trials or other medical research.

(b) For the purposes of this general license, agricultural commodities, medicine, and medical devices are defined as follows:

(1) *Agricultural commodities.* Agricultural commodities are products that fall within the term "agricultural commodity" as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602) and are intended for use as:

(i) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(ii) Seeds for food crops;

(iii) Fertilizers or organic fertilizers; or

(iv) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine.* Medicine is an item that falls within the definition of the term "drug" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) *Medical devices.* A medical device is an item that falls within the definition of "device" in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(c) This general license does not authorize any transactions otherwise prohibited by the WBSR, including transactions involving any person blocked pursuant to the WBSR other than the blocked persons described in paragraph (a) of this general license, unless separately authorized.

Note to General License No. 3. Nothing in this general license relieves any person from compliance with any other Federal laws or requirements of other Federal agencies.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

Dated: November 16, 2023.

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2024-04856 Filed 3-6-24; 8:45 am]

BILLING CODE 4810-AL-P

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Part 591

#### Publication of Venezuela Sanctions Regulations Web General License 43A

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Publication of web general license.

**SUMMARY:** The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing one general license (GL) issued pursuant to the Venezuela Sanctions Regulations: GL 43A, which was previously made available on OFAC's website.

**DATES:** GL 43A was issued on January 29, 2024. See **SUPPLEMENTARY INFORMATION** for additional relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202-622-2480; Assistant Director for Regulatory Affairs, 202-622-4855; or Assistant Director for Compliance, 202-622-2490.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: <https://ofac.treasury.gov>.



## Background

On January 29, 2024, OFAC issued GL 43A to authorize certain transactions otherwise prohibited by the Venezuela Sanctions Regulations (VSR), 31 CFR part 591. The GL was made available on OFAC's website (<https://ofac.treasury.gov>) when it was issued. GL 43A superseded GL 43, which was issued on October 18, 2023. GL 43A is now expired. The text of GL 43A is provided below.

## OFFICE OF FOREIGN ASSETS CONTROL

### Venezuela Sanctions Regulations

#### 31 CFR Part 591

#### GENERAL LICENSE NO. 43A

#### Authorizing the Wind Down of Transactions Involving CVG Compania General de Minería de Venezuela CA

(a) Except as provided in paragraph (b) of this general license, all transactions that are ordinarily incident and necessary to the wind down of any transaction involving CVG Compania General de Minería de Venezuela CA (Minerven), or any entity in which Minerven owns, directly or indirectly, a 50 percent or greater interest, that are prohibited by Executive Order (E.O.) 13850, as amended by E.O. 13857, or E.O. 13884, each as incorporated into the Venezuela Sanctions Regulations, 31 CFR part 591 (the VSR), are authorized through 12:01 a.m. eastern standard time, February 13, 2024.

(b) This general license does not authorize any transactions otherwise prohibited by the VSR, including any transactions involving any person blocked pursuant to the VSR other than the blocked persons described in paragraph (a) of this general license, Government of Venezuela persons blocked solely pursuant to E.O. 13884, Banco Central de Venezuela, or Banco de Venezuela SA Banco Universal.

(c) Effective January 29, 2024, General License No. 43, dated October 18, 2023, is replaced and superseded in its entirety by this General License No. 43A.

Bradley T. Smith,  
*Director, Office of Foreign Assets Control.*

Dated: January 29, 2024.

**Bradley T. Smith,**  
*Director, Office of Foreign Assets Control.*  
[FR Doc. 2024-04851 Filed 3-6-24; 8:45 am]

**BILLING CODE 4810-AL-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2024–0141]

RIN 1625-AA00

#### Safety Zone; Sabine River, Orange, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX. This action is necessary to protect persons and vessels from hazards associated with a high-speed Jet Ski race competition in Orange, TX. Entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur or a designated representative.

**DATES:** This rule is effective from 10 a.m. on March 15, 2024, through 6 p.m. on March 16, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2024–0141 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Sean Yanez, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409–723–5027, email [Sean.P.Yanez@uscg.mil](mailto:Sean.P.Yanez@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

|        |  |
|--------|--|
| BNM    | Broadcast Notice to Mariners                       |
| CFR    | Code of Federal Regulations                        |
| COTP   | Captain of the Port Marine Safety Unit Port Arthur |
| DHS    | Department of Homeland Security                    |
| FR     | Federal Register                                   |
| NPRM   | Notice of proposed rulemaking                      |
| §      | Section  |
| U.S.C. | United States Code                                 |

##### II. Background Information and Regulatory History

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

unnecessary, or contrary to the public interest.” The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This safety zone must be established by March 15, 2024, and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zone until after the dates of the jet ski races and, consequently, compromise public safety.

Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because establishing the safety zone by March 15, 2024, is necessary to protect all waterway users during scheduled race events.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Marine Safety Unit Port Arthur (COTP) has determined that the potential hazards associated with high-speed jet ski races are a safety concern for persons and vessels operating on the Sabine River. Possible hazards include risks of injury or death from near or actual contact among participant vessels and spectators or mariners traversing through the safety zone. This rule is needed to protect all waterway users, including event participants and spectators, before, during, and after the scheduled event.

##### IV. Discussion of the Rule

This rule establishes a temporary safety zone from 10 a.m. through 6 p.m. each day from March 15, 2024, through March 16, 2024. The safety zone covers all navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX, bounded by the Orange Municipal Wharf, between latitude lines at 30°05′50″ N and 30°05′33″ N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed jet ski races and will include breaks and opportunity for vessels to transit through the regulated area. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## V. Regulatory Analyses

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

### A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone encompasses a less than half-mile stretch of the Sabine River for eight hours on each of two days. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNMs) via VHF–FM marine channel 16 about the zone, daily enforcement periods will include breaks that will provide an opportunity for vessels to transit through the regulated area, and the rule allows vessels to seek permission to enter the zone.

### B. Impact on Small Entities

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

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

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

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

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

### C. Collection of Information

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

### D. Federalism and Indian Tribal Governments

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

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

### E. Unfunded Mandates Reform Act

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

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

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting eight hours on each of two days that will prohibit entry on less than a one-half mile stretch of the Sabine River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

### G. Protest Activities

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

### List of Subjects in 33 CFR Part 165

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

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

## PART 165—REGULATED NAVIGATION AREA AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0141 to read as follows:

### § 165.T08–0141 Safety Zone; Sabine River, Orange, Texas.

(a) *Location.* The following area is a safety zone: All navigable waters of the

Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX, bounded on the north by the Orange Municipal Wharf at latitude 30°05'50" N and to the south at latitude 30°05'33" N.

(b) *Effective period.* This section is effective from 10 a.m. on March 15, 2024, through 6 p.m. on March 16, 2024.

(c) *Enforcement periods.* This section will be enforced from 10 a.m. through 6 p.m. daily. Breaks in the racing will occur during the enforcement periods, which will allow for vessels to pass through the safety zone. The Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative will provide notice of enforcement appropriate per paragraph (e) of this section.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of vessels or persons into this zone is prohibited unless authorized by the COTP or a designated representative. The COTP or their designated representative may be contacted on VHF-FM channel 13 or 16, or by phone at by telephone at 409-719-5070. A designated representative may be a Patrol Commander (PATCOM). The PATCOM may be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM".

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators or spectator vessels. The "official patrol vessels" consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the COTP or a designated representative to patrol the regulated area.

(3) Spectator vessels desiring to transit the regulated area may do so only with approval from the COTP or a designated representative and when so directed by that officer will be operated at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels.

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

(5) Any spectator vessel may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel. Spectator vessels may be moored to a waterfront facility within

the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(6) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

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

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: February 29, 2024.

**Anthony R. Migliorini,**  
*Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Unit Port Arthur.*

[FR Doc. 2024-04872 Filed 3-6-24; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2023-0368]

RIN 1625-AA11

#### Regulated Navigation Area; St. Louis River/Duluth-Superior Harbor, Duluth, MN

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Department of Homeland Security, United States Coast Guard, is establishing a Regulated Navigation Area for certain waters of the Duluth-Superior Harbor and the St. Louis River in Duluth, MN. This action is necessary to prevent disruption of an engineered sediment remediation project within one of the Great Lakes designated Areas of Concern (AOC); the St. Louis River. This interim rulemaking prohibits

anchoring, spudding, dredging, dragging, or any other activity which could potentially disturb the riverbed in the designated area unless authorized by the District Commander or the Captain of the Port. We invite your comments on this interim rulemaking.

**DATES:** This interim rule is effective April 8, 2024. Comments and related material must be received by the Coast Guard on or before May 6, 2024.

**ADDRESSES:** You may submit comments identified by docket number USCG-2023-0368 using the Federal Decision Making Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email LT Joseph McGinnis, Coast Guard; telephone 218-725-3818, email [MSU.DuluthWWM@uscg.mil](mailto:MSU.DuluthWWM@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

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#### **I. Abbreviations**

AOC Area of Concern  
COTP Captain of the Port  
CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
OMB Office of Management and Budget  
RNA Regulated Navigation Area  
§ Section  
U.S.C. United States Code

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

The purpose of this rulemaking is to ensure the protection of the remedies, human health, and the environment in the Duluth Harbor. The Coast Guard is publishing this interim rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

In 2019, the Minnesota Pollution Control Agency (MPCA) began discussions with the Coast Guard and other stakeholders to explore establishing Regulated Navigation Areas (RNAs) for some of the project sites within the St. Louis River Area of Concern (AOC) to prevent disrupting engineered remedies from consequential human caused disturbance at specific remedial action sites that contain known contaminated sediment. The Federal Great Lakes Restoration Initiative funded these remedial actions under the Great Lakes Legacy Act provisions in order to mitigate risks to human and environmental health by reducing exposure to contaminated riverbed sediments. To prevent future exposure to the contained contaminants, the engineered remedies must be protected from disturbance. In 2022, the MPCA notified the Coast Guard of the sites and areas that would be appropriate for an RNA. The Captain of the Port (COTP) of Duluth has determined that protection of these remedies is appropriate and necessary to protect human and environmental health.

A Notice of Proposed Rulemaking (NPRM) was published on August 23, 2023. 88 FR 57378. The Coast Guard distributed the NPRM through the Harbor Technical Advisory Council and sent emails to local stakeholders. Seven responses were received during the comment period. These comments, our responses to them, and the changes that have been made to the proposed rule are discussed in further detail below.

### III. Discussion of Comments and Changes to the Proposed Rule

The Coast Guard received seven comments in response to the NPRM. One comment was in full support of the proposed rule, while the other six brought forward a number of stakeholder concerns.

The primary request shared by most commenters is that the Coast Guard should withdraw the proposed rule and engage with affected parties before moving forward. The Coast Guard acknowledges these concerns but will not be withdrawing this rulemaking. Our priority in this matter is the protection of the engineered remedies that are a part of the St. Louis River AOC sediment remediation project and withdrawing this rule would leave them vulnerable to disturbance. In recognition of these concerns, the Coast Guard will continue to accept public comments on this RNA. We encourage stakeholders to provide the Coast Guard with more information on the impact of

the RNA on operations in the Duluth Superior Harbor.

One commenter recommended that the Coast Guard remove propeller scouring from the list of prohibited activities within the RNA. We agree with this commenter and have removed propeller scouring from the list of prohibited activities to mitigate the impact of the RNA on port operations. The engineered remedies of the sediment cap are designed to protect against disturbances caused by normal propeller scouring.

One commenter argued that this rule is premature because there are continuing remediation efforts in Minnesota and Wisconsin waters that may also require protection. We disagree with this comment. The Coast Guard's priority in this matter is preventing any disturbance of the remediation project that protects the environment from contaminated sediments. Our mission of environmental protection is best served by the immediate protection of these remedies. The protection of other remediation projects can be addressed in a separate rulemaking or by revising the geographical boundary of this rule.

Another commenter alleged that this rule is vague and not implementable because it fails to specify what entities must be consulted in order for the COTP to grant a waiver. We disagree with this comment. The COTP has the authority to grant a waiver and may consult with private, state, and Federal entities to assist in making a decision. This language gives the COTP sufficient time to review and act in accordance with the Ports and Waterways Safety Act.

Some commenters requested that the Coast Guard modify the waiver process for this RNA to include a timeline for a decision and an appeal process. The Coast Guard declines to impose a COTP response deadline. However, we have incorporated into this regulation a requirement for these waivers to be submitted 120 days prior to operation in order to give sufficient time for adequate review. The appeals process is addressed in 33 CFR 160.7.

One commenter recommended the addition of language that would exclude recreational anglers from the limitations imposed by the RNA. The Coast Guard disagrees with this recommendation. Anchoring in the RNA is an environmental risk, regardless of the type of vessel. Fishing without anchoring or disturbance of any bottom substrate is authorized within the RNA.

One commenter asked that we provide a specific exemption for cruise ship traffic. The Coast Guard declines to exempt cruise ship traffic from the

requirements of the RNA as doing so would jeopardize the engineered remedies, and therefore place the environmental health of the harbor at risk. That being said, it is our intention to mitigate the impact of this RNA on the growing cruise ship sector and we encourage stakeholders to provide more information during the comment period for this interim rule.

One commenter took issue with the way the proposed rule described the relationship between Indian tribes and the U.S. Government. We made the recommended changes to address this in section VI.J. below.

The notable changes between this interim rule and the proposed rule is the exclusion of propeller scouring from the list of prohibited activities, a waiver submission timeline, and the addition of an exemption for emergency circumstances out of the control of the vessel and operator.

### V. Discussion of the Rule

Coast Guard District Nine is establishing the RNA in order to prevent any potential disruption to the remediated St. Louis River AOC sites. The RNA will cover these six remediation sites: Minnesota Slip, Duluth, MN; Slip 3, Duluth, MN; Slip C, Duluth, MN; Azcon/Duluth Seaway Port Authority Grafeld Slip C, Duluth, MN; St. Louis River/Interlake/Duluth Tar, Duluth, MN; U.S. Steel/Spirit Lake, Duluth, MN. Specific coordinates are included in the supplemental regulatory text.

All vessels and persons are prohibited from activities that would disturb the integrity of the engineered remedies designed to address contaminated sediments at these sites unless receiving approval from the COTP through the waiver process or in emergency situations. Activities may include, but are not limited to: anchoring, dragging, spudding, or dredging. The creation of this RNA will render the need for established safety zones at two sites obsolete, so this rulemaking also repeals § 165.905 USX Superfund Site Safety Zones: St. Louis River and § 165.927 Safety Zone; St. Louis River, Duluth/Interlake Tar Remediation Site, Duluth, MN.

### VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

### A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget.

### B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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.

While some owners or operators of vessels intending to transit the RNA may be small entities, for the reasons stated in section IV.A above, this interim rule would not have a significant economic impact on any vessel owner or operator. 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 proposed rule would economically affect it. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and

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

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

### D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

### E. Federalism

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

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel’s obligations, are within the field foreclosed from regulation by the States. See the Supreme Court’s decision in *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000). Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel’s obligations,

the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

### F. Unfunded Mandates

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

### G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

### H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

### I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

### J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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. Nothing in this proposed rule will preempt the

rights to hunt, fish, and gather retained by Indian tribes under either the 1842 or 1854 Treaty with the U.S. 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.

#### K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### M. Environment

We have analyzed this rule under Department of Homeland Security Management 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 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. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this interim rule.

#### VII. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received on this interim rule 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 interim rule, 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–2023–0368 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 interim 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 inrweim 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).

**Public meeting.** We are not planning to hold a public meeting but will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting. For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

#### List of Subjects in 33 CFR Part 165

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

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

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.945 to Subpart F to read as follows:

**§ 165.945 Regulated navigation area; St. Louis River Area of Concern, Duluth, Minnesota.**

(a) *Location.* The following areas are a regulated navigation area:

TABLE 1 TO § 165.945

| Number  | Site name                        | Regulated area<br>(Note: all geographic coordinates expressed in term of latitude and longitude datum are based on WGS 84 coordinates)  |
|---------|----------------------------------|---|
| 1 ..... | Minnesota Slip, Duluth, MN ..... | The aquatic area within a polygon connected by the following points: <ul style="list-style-type: none"> <li>• 46°46'53.4268" N 092°05'45.2210" W</li> <li>• 46°46'53.1146" N 092°05'46.1287" W</li> <li>• 46°46'52.1716" N 092°05'45.4669" W</li> <li>• 46°46'51.8253" N 092°05'46.6317" W</li> <li>• 46°46'52.1940" N 092°05'46.7526" W</li> <li>• 46°47'01.7900" N 092°05'50.8326" W</li> </ul> |

TABLE 1 TO § 165.945—Continued

| Number  | Site name   | Regulated area<br>(Note: all geographic coordinates expressed in term of latitude and longitude datum are based on WGS 84 coordinates)  |
|---------|---|---|
| 2 ..... | Slip 3, Duluth, MN .....  | <ul style="list-style-type: none"> <li>• 46°47'00.8887" N 092°05'52.4477" W</li> </ul> <p>The aquatic area within a polygon connected by the following points:</p> <ul style="list-style-type: none"> <li>• 46°46'34.9277" N 092°06'18.2902" W</li> <li>• 46°46'36.8355" N 092°06'18.7654" W</li> <li>• 46°46'38.5299" N 092°06'21.5290" W</li> <li>• 46°46'37.6368" N 092°06'22.6961" W</li> </ul>   |
| 3 ..... | Slip C, Duluth, MN .....  | <p>The aquatic area to the southwest of a line connected by the following points:</p> <ul style="list-style-type: none"> <li>• 46°46'22.1579" N 092°06'31.4489" W</li> <li>• 46°46'21.0546" N 092°06'27.9639" W</li> </ul>  |
| 4 ..... | Azcon/Duluth Seaway Port Authority Garfield Slip C, Duluth, MN. | <p>The aquatic area within a polygon connected by the following points:</p> <ul style="list-style-type: none"> <li>• 46°45'41.9081" N 092°06'11.5069" W</li> <li>• 46°45'41.7040" N 092°06'11.5337" W</li> <li>• 46°45'41.2503" N 092°06'12.6746" W</li> <li>• 46°45'40.8467" N 092°06'12.3733" W</li> <li>• 46°45'40.3784" N 092°06'13.6404" W</li> <li>• 46°45'40.1196" N 092°06'13.7025" W</li> <li>• 46°45'39.3277" N 092°06'13.0539" W</li> <li>• 46°45'37.0413" N 092°06'19.3995" W</li> <li>• 46°45'37.8242" N 092°06'19.9225" W</li> <li>• 46°45'38.2401" N 092°06'19.8461" W</li> <li>• 46°45'38.7466" N 092°06'20.2255" W</li> </ul>  |
| 5 ..... | St. Louis River/Interlake/Duluth Tar, Duluth, MN .....          | <p>The aquatic area north of a line connected by the following points:</p> <ul style="list-style-type: none"> <li>• 46°43'12.8964" N 092°10'30.7956" W</li> <li>• 46°43'12.1656" N 092°10'28.1136" W</li> <li>• 46°43'09.3576" N 092°10'26.0256" W</li> <li>• 46°43'09.2748" N 092°10'25.9932" W</li> <li>• 46°43'08.8500" N 092°10'25.6872" W</li> <li>• 46°43'08.8320" N 092°10'21.8352" W</li> <li>• 46°43'08.0436" N 092°10'19.5564" W</li> <li>• 46°43'08.4936" N 092°10'19.0236" W</li> <li>• 46°43'09.3828" N 092°10'21.4140" W</li> <li>• 46°43'10.1640" N 092°10'22.0224" W</li> <li>• 46°43'10.8192" N 092°10'21.6264" W</li> </ul> <p>and the aquatic area to the north of a line connected by the following points:</p> <ul style="list-style-type: none"> <li>• 46°43'11.9208" N 092°10'03.2772" W</li> <li>• 46°43'12.1620" N 092°10'01.6500" W</li> <li>• 46°43'07.6872" N 092°09'48.3840" W</li> <li>• 46°43'08.1300" N 092°09'42.4980" W</li> <li>• 46°43'10.2072" N 092°09'42.4620" W</li> </ul>  |
| 6 ..... | U.S. Steel/Spirit Lake, Duluth, MN .....                        | <p>The aquatic area to the west of a line connected by the following points:</p> <ul style="list-style-type: none"> <li>• 46°41'38.8208" N 092°12'12.7736" W</li> <li>• 46°41'39.6166" N 092°12'08.8750" W</li> <li>• 46°41'39.3879" N 092°12'05.5895" W</li> <li>• 46°41'39.2250" N 092°12'04.3468" W</li> <li>• 46°41'39.1231" N 092°12'02.9108" W</li> <li>• 46°41'38.9452" N 092°12'01.1111" W</li> <li>• 46°41'38.6133" N 092°11'59.4509" W</li> <li>• 46°41'38.3046" N 092°11'57.7306" W</li> <li>• 46°41'37.2472" N 092°11'53.6615" W</li> <li>• 46°41'36.1915" N 092°11'49.7903" W</li> <li>• 46°41'34.5164" N 092°11'45.6293" W</li> <li>• 46°41'33.5446" N 092°11'43.9431" W</li> <li>• 46°41'30.8242" N 092°11'43.9684" W</li> <li>• 46°41'30.8278" N 092°11'39.9806" W</li> <li>• 46°41'29.1156" N 092°11'38.2350" W</li> <li>• 46°41'27.0671" N 092°11'37.5149" W</li> <li>• 46°41'25.4408" N 092°11'36.7605" W</li> <li>• 46°41'25.0347" N 092°11'36.5722" W</li> <li>• 46°41'22.7528" N 092°11'36.0788" W</li> <li>• 46°41'20.7010" N 092°11'35.6137" W</li> <li>• 46°41'19.6484" N 092°11'35.5431" W</li> <li>• 46°41'19.6484" N 092°11'35.5431" W</li> <li>• 46°41'18.5660" N 092°11'35.0700" W</li> <li>• 46°41'16.5697" N 092°11'34.5434" W</li> <li>• 46°41'14.4790" N 092°11'33.9685" W</li> <li>• 46°41'12.3306" N 092°11'33.9221" W</li> <li>• 46°41'12.7159" N 092°11'44.4501" W</li> <li>• 46°41'02.1240" N 092°11'44.4501" W</li> </ul> |

TABLE 1 TO § 165.945—Continued

| Number | Site name | Regulated area<br>(Note: all geographic coordinates expressed in term of latitude and longitude datum are based on WGS 84 coordinates)   |
|--------|-----------|--|
|        |           | <ul style="list-style-type: none"> <li>• 46°41'01.9943" N 092°11'40.5819" W</li> <li>• 46°41'04.0665" N 092°11'39.1344" W</li> <li>• 46°41'03.8696" N 092°11'36.2223" W</li> <li>• 46°41'02.0724" N 092°11'34.3605" W</li> <li>• 46°40'56.9795" N 092°11'32.1366" W</li> <li>• 46°40'55.9436" N 092°11'32.3531" W</li> <li>• 46°40'53.8981" N 092°11'32.7804" W</li> <li>• 46°40'51.2261" N 092°11'33.1191" W</li> <li>• 46°40'48.9634" N 092°11'33.1528" W</li> <li>• 46°40'46.4928" N 092°11'32.8907" W</li> <li>• 46°40'45.2017" N 092°11'32.5057" W</li> <li>• 46°40'42.1916" N 092°11'38.3025" W</li> <li>• 46°40'38.9992" N 092°11'44.4501" W</li> <li>• 46°40'32.6805" N 092°11'44.4595" W</li> <li>• 46°40'28.8937" N 092°11'44.7158" W</li> <li>• 46°40'27.5301" N 092°11'46.0856" W</li> <li>• 46°40'26.6103" N 092°11'47.3902" W</li> <li>• 46°40'26.2216" N 092°11'48.4650" W</li> <li>• 46°40'25.0613" N 092°11'51.2108" W</li> </ul> |

(b) *Regulations.* In addition to the general Regulated Navigation Area regulations in Subpart B of this Section, all vessels and persons are prohibited from activities that would disturb the integrity of engineered remedies designed to address contaminated sediments at the sites identified above, and further described in the St. Louis River Area of Concern Remedial Action Plan. Such activities may include, but are not limited to anchoring, dragging, spudding, or dredging. The prohibitions in this section shall not supersede restrictions outlined in executed Records of Decision for Superfund sites.

(c) *Exemptions.*

(1) Public vessels operating in an official capacity. Public vessels are defined as any vessel owned or operated by the United States or by the State or local government.

(2) Any vessel in an emergency situation may deviate from this regulation to the extent necessary to avoid endangering the safety of persons, the environment, and/or property. If deviation occurs, the master or designee shall inform the Coast Guard as soon as it is safe and practicable to do so.

(d) *Waivers.* The Captain of the Port Duluth may, in consultation with local, state, and Federal agencies or regulated private entities, authorize a waiver from this section if it is determined that activity can be performed without undue risk to environmental remediation construction, monitoring, and maintenance. Requests for waivers should be submitted in writing and at least 120 days prior to the proposed operations to Commander, U.S. Coast Guard Marine Safety Unit, Duluth, 515 West First Street, Room 145, Duluth,

MN 55802 to facilitate review by the U.S. Coast Guard.

(e) *Penalties.* Vessel or persons that violate this section are subject to the penalties set forth in 46 U.S.C. 70036.

(f) *Enforcement period.* This Regulated Navigation Area is in effect permanently and can be enforced at any time.

(g) *Contact information.* If you observe violations of the regulations in this section, you may notify the COTP by email, at [MSUDuluthWWM@uscg.mil](mailto:MSUDuluthWWM@uscg.mil), or by phone, 218-725-3818.

Dated: February 28, 2024.

**Jonathan P. Hickey,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2024-04841 Filed 3-6-24; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA-R04-OAR-2021-0691; FRL-11644-02-R4]**

### Air Plan Approval; KY; 2015 8-Hour Ozone Nonattainment New Source Review Permit Program Requirements and Rule Revision for Jefferson County

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Jefferson County portion of the Kentucky State Implementation Plan

(SIP) submitted by the Commonwealth of Kentucky through the Kentucky Energy and Environment Cabinet (Cabinet) on June 13, 2022. The changes were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District, also referred to herein as Jefferson County). EPA is approving changes to the District's rules on the construction or modification of major stationary sources that are located within nonattainment areas or that have emissions impacting nonattainment areas. EPA also is approving the certification submitted by Kentucky on behalf of the District that the new version of the Nonattainment New Source Review (NNSR) permitting regulations for incorporation into the Jefferson County portion of the Kentucky SIP meets the NNSR nonattainment planning requirements for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). The certification covers the Jefferson County portion of the Louisville, Kentucky-Indiana multi-state nonattainment area for the 2015 8-hour ozone NAAQS. This action is pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

**DATES:** This rule is effective April 8, 2024.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2021-0691. All documents in the docket are listed on the [regulations.gov](https://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](http://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 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:** Sarah LaRocca, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, GA 30303–8960. The telephone number is (404) 562–8994. Ms. LaRocca can also be reached via electronic mail at [LaRocca.Sarah@epa.gov](mailto:LaRocca.Sarah@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The New Source Review (NSR) program is a preconstruction permitting program that requires certain stationary sources of air pollution to obtain permits prior to beginning construction. The NSR permitting program applies to new construction and to the modification of existing sources located in an area where the NAAQS have been exceeded (nonattainment area), areas where the NAAQS have not been exceeded (attainment), and areas that are unclassified.

Jefferson County is located within a nonattainment area for the 2015 8-hour ozone NAAQS. See 40 CFR 81.318; see also EPA's Greenbook.<sup>1</sup> Therefore, Jefferson County is required to have NSR rules approved into the Jefferson County portion of the Kentucky SIP for this criteria pollutant addressing the requirements of CAA section 172(c)(5), CAA section 173, 40 CFR 51.165, and 40 CFR 51.1314.

Through a notice of proposed rulemaking (NPRM) published on January 19, 2024 (89 FR 3613), EPA proposed to approve changes to the District's Regulation 2.04, *Construction or Modification of Major Sources In or Impacting Upon Non-Attainment Areas (Emission Offset Requirements)*, which establishes requirements for Jefferson

County's NNSR program, along with a certification that this updated version of Regulation 2.04 satisfies the requirements of the CAA for the 2015 8-hour ozone NAAQS applicable to the Jefferson County portion of the Louisville, KY-IN 2015 ozone moderate nonattainment area.<sup>2</sup> In this rulemaking, EPA is finalizing its approval of the District's June 13, 2022,<sup>3,4</sup> request to incorporate Version 8<sup>5</sup> of Regulation 2.04 and certification, for incorporation into the SIP, as meeting the NNSR requirements for implementation of the 2015 8-hour ozone NAAQS. EPA's rationale for approving the changes is described in the January 19, 2024, NPRM. Comments on the January 19, 2024, NPRM were due on or before February 20, 2024. No comments were received on the January 19, 2024, NPRM, adverse or otherwise.

##### 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 Jefferson County Regulation 2.04, Version 8, *“Construction or Modification of Major Sources in or Impacting upon Non-Attainment Areas (Emission Offset Requirements)”*, locally effective on March 16, 2022, except for the ethanol production facilities exclusion in Sections 1.4.3.20 and 5.20. Additionally, EPA is retaining Sections 2.2.20 and 10 from Version 7 of Regulation 2.04, locally effective on March 17, 1993.<sup>6,7</sup> EPA has made and

<sup>2</sup> On July 13, 2021, Kentucky, on behalf of Jefferson County, submitted a certification that the current SIP-approved version of Regulation 2.04 fulfills requirements of the NNSR program. Jefferson County withdrew that submission on June 13, 2022, and replaced it with a SIP revision containing changes to District Regulation 2.04 and an updated certification that the modified version of Regulation 2.04 complies with NNSR requirements for the 8-hour ozone NAAQS as addressed in this rulemaking.

<sup>3</sup> The June 13, 2022, submission was received via a letter dated June 15, 2022.

<sup>4</sup> As discussed in the January 19, 2024, NPRM, the June 13, 2022, submission contains changes to address the federal NNSR provisions promulgated in the Ethanol Rule. EPA is not acting on those changes in this rulemaking.

<sup>5</sup> EPA is retaining Sections 2.2.20 and 10 from Version 7 of Regulation 2.04.

<sup>6</sup> In a letter dated August 24, 2023, the District withdrew its request to remove Section 2.2.20 of Regulation 2.04 from the SIP, which defines “Class I area,” from EPA's consideration. In a subsequent email dated November 14, 2023, the District clarified that the withdrawal of the June 13, 2022, request to remove from the SIP Regulation 2.04 version 7 Section 2.2.20, includes all subparagraphs within the definition (i.e., 2.2.20.1 through 2.2.20.7). See the August 24, 2023, letter, and the

will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>8</sup>

##### III. Final Action

EPA is approving changes to the Jefferson County portion of the Kentucky SIP, submitted on June 13, 2022, with the exception of the ethanol production facilities exclusion in Sections 1.4.3.20 and 5.20, which EPA is not acting on at this time. These revisions will align Jefferson County Regulation 2.04, with federal NNSR regulations at 40 CFR 51.165. Additionally, EPA is approving Jefferson County's certification of NNSR requirements for the 2015 8-hour ozone NAAQS for the Jefferson County portion of the Louisville, KY-IN 2015 ozone moderate nonattainment area which meets the requirements of CAA sections 172(c)(5) and 173 and 40 CFR 51.165 and 51.1314. EPA has determined that the requested changes in Kentucky's June 13, 2022, SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

##### 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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices,

November 14, 2023, clarifying correspondence in the docket for this rulemaking.

<sup>7</sup> In a letter dated August 24, 2023, the District withdrew its request to remove *Section 10—Protection of Visibility*, from EPA's consideration. Keeping *Section 10—Protection of Visibility* in the SIP allows the Commonwealth to maintain visibility provisions for the Jefferson County area in accordance with 40 CFR 51.307(b)(2). The request to add *Section 10—Offset Ratio* remains before EPA for consideration. The withdrawal would leave two sections numbered “10” in Rule 2.04: one locally effective on March 13, 1993, and the other locally effective on March 16, 2022. The District intends to address the duplicate numbering in a future submission.

<sup>8</sup> 62 FR 27968 (May 22, 1997).

<sup>1</sup> The Kentucky portion of the Greenbook is available at [https://www3.epa.gov/airquality/greenbook/anayo\\_ky.html](https://www3.epa.gov/airquality/greenbook/anayo_ky.html).

provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

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

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

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

Jefferson County evaluated EJ considerations as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The analysis was done for the purpose of providing additional context and information about this proposed rulemaking to the public, not as a basis of the proposed action. EPA is taking action under the CAA on bases independent of Jefferson County’s evaluation of EJ. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

#### List of Subjects in 40 CFR Part 52

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

Dated: March 1, 2024.

**Jeaneanne Gettle,**

*Acting Regional Administrator, Region 4.*

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

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

#### Subpart S—Kentucky

- 2. In § 52.920(c), in table 2 under the center heading “Reg 2—Permit Requirements,” revise the entry for 2.04 to read as follows:

#### § 52.920 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

TABLE 2 TO PARAGRAPH (c)—EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

| Reg                              | Title/subject | EPA approval date | Federal Register notice | District effective date | Explanation |
|----------------------------------|---------------|-------------------|-------------------------|-------------------------|-------------|
| <b>Reg 2—Permit Requirements</b> |               |                   |                         |                         |             |

TABLE 2 TO PARAGRAPH (c)—EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY—Continued

| Reg        | Title/subject   | EPA approval date | Federal Register notice           | District effective date | Explanation   |
|------------|---|-------------------|-----------------------------------|-------------------------|---|
| 2.04 ..... | Construction or Modification of Major Sources in or Impacting upon Non-Attainment Areas (Emission Offset Requirements). | 3/7/2024          | [Insert citation of publication]. | 3/16/2022               | Except for the ethanol production facilities exclusion in Sections 1.4.3.20 and 5.20. Additionally, EPA is retaining Sections 2.2.20 and 10 from Version 7 of Regulation 2.04, locally effective on March 17, 1993. |
| *          | *   | *                 | *                                 | *                       | *   |

\* \* \* \* \*

[FR Doc. 2024-04782 Filed 3-6-24; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-OLEM-2023-0041, 0384, 0385, 0386 and 0387; FRL-11725-02-OLEM]

### National Priorities List

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

**ACTION:** Final rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“the EPA” or “the agency”) in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule adds five sites to the General Superfund section of the NPL.

**DATES:** The rule is effective on April 8, 2024.

**ADDRESSES:** Contact information for the EPA Headquarters:

- Docket Coordinator, Headquarters; U.S. Environmental Protection Agency; CERCLA Docket Office; 1301

Constitution Avenue NW; William Jefferson Clinton Building West, Room 3334, Washington, DC 20004, (202) 566-0276.

#### FOR FURTHER INFORMATION CONTACT:

Terry Jeng, Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail code 5204T), U.S. Environmental Protection Agency; 1301 Constitution Avenue NW, Washington, DC 20460, telephone number: (202) 566-1048, email address: [jeng.terry@epa.gov](mailto:jeng.terry@epa.gov).

The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109-3912; (617) 918-1413.
- James Desir, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007-1866; (212) 637-4342.
- Lorie Baker, Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, 4 Penn Center, 1600 John F. Kennedy Boulevard, Mail code 3SD12, Philadelphia, PA 19103 (215) 814-3355.
- Sandra Bramble, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mail code 9T25, Atlanta, GA 30303; (404) 562-8926.
- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC-7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; (312) 886-4465.
- Michelle Delgado-Brown, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1201 Elm Street, Suite 500, Mail code SED, Dallas, TX 75270; (214) 665-3154.
- Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mail code SUPRSTAR, Lenexa, KS 66219; (913) 551-7956.
- David Fronczak, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mail code 8SEM-EM-

P, Denver, CO 80202-1129; (303) 312-6096.

- Leslie Ramirez, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mail code SFD-6-1, San Francisco, CA 94105; (415) 972-3978.

- Brandon Perkins, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 Sixth Avenue, Mail code 13-J07, Seattle, WA 98101; (206) 553-6396.

#### SUPPLEMENTARY INFORMATION:

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## I. Background

### A. What are CERCLA and SARA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (“CERCLA” or “the Act”), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (“SARA”), Public Law 99–499, 100 Stat. 1613 *et seq.*

### B. What is the NCP?

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes “criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action, for the purpose of taking removal action.” “Removal” actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of

hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

### C. What is the National Priorities List (NPL)?

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of “releases” and the highest priority “facilities” and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the “General Superfund section”) and one of sites that are owned or operated by other Federal agencies (the “Federal Facilities section”). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (“HRS”) score and determining whether the facility is placed on the NPL.

### D. How are sites listed on the NPL?

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. On January 9, 2017 (82 FR 2760),

a subsurface intrusion component was added to the HRS to enable the EPA to consider human exposure to hazardous substances or pollutants and contaminants that enter regularly occupied structures through subsurface intrusion when evaluating sites for the NPL. The current HRS evaluates four pathways: ground water, surface water, soil exposure and subsurface intrusion, and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL; (2) Each state may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each state as the greatest danger to public health, welfare or the environment among known facilities in the state. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658), and generally has updated it at least annually.

### E. What happens to sites on the NPL?

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the “Superfund”) only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (“Remedial actions” are those “consistent with a permanent remedy, taken instead of or in addition to removal actions” (40 CFR 300.5).) However, under 40 CFR 300.425(b)(2), placing a site on the NPL “does not imply that monies will be expended.” The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

### F. Does the NPL define the boundaries of sites?

The NPL does not describe releases in precise geographical terms; it would be

neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA “facility” is broadly defined to include any area where a hazardous substance has “come to be located” (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the “boundaries” of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the “Jones Co. Plant site”) in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the “site”). The “site” is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination; and is not meant to constitute any determination of liability at a site. For example, the name “Jones Co. plant site,” does not imply that the Jones Company is responsible for the contamination located on the plant site.

EPA regulations provide that the remedial investigation (“RI”) “is a process undertaken . . . to determine

the nature and extent of the problem presented by the release” as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility study (“FS”) (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination “has come to be located” before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

#### *G. How are sites removed from the NPL?*

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required;
- (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or
- (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment and taking of remedial measures is not appropriate.

#### *H. May the EPA delete portions of sites from the NPL as they are cleaned up?*

In November 1995, the EPA initiated a policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been

cleaned up and made available for productive use.

#### *I. What is the Construction Completion List (CCL)?*

The EPA also has developed an NPL construction completion list (“CCL”) to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For more information on the CCL, see the EPA’s internet site at <https://www.epa.gov/superfund/construction-completions-national-priorities-list-npl-sites-number>.

#### *J. What is the Sitewide Ready for Anticipated Use measure?*

The Sitewide Ready for Anticipated Use measure represents important Superfund accomplishments, and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, Office of Solid Waste and Emergency Response (OSWER) 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to <https://www.epa.gov/superfund/about-superfund-cleanup-process#reuse>.

#### *K. What is state/tribal correspondence concerning NPL listing?*

In order to maintain close coordination with states and tribes in the NPL listing decision process, the EPA’s policy is to determine the position of the states and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following website: <https://www.epa.gov/>

*superfund/statetribal-correspondence-concerning-npl-site-listing.*

The EPA has improved the transparency of the process by which state and tribal input is solicited. The EPA is using the web and where appropriate more structured state and tribal correspondence that: (1) Explains the concerns at the site and the EPA's rationale for proceeding; (2) requests an explanation of how the state intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing states that information on

their responses will be publicly available.

A model letter and correspondence between the EPA and states and tribes where applicable, is available on the EPA's website at <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

## II. Availability of Information to the Public

### A. May I review the documents relevant to this final rule?

Yes, documents relating to the evaluation and scoring of the sites in

this final rule are contained in dockets located both at the EPA headquarters and in the EPA regional offices.

An electronic version of the public docket is available through <https://www.regulations.gov> (see table below for docket identification numbers). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities identified in section II.D.

## DOCKET IDENTIFICATION NUMBERS BY SITE

| Site name                                  | City/county, state            | Docket ID No.          |
|--|-------------------------------|------------------------|
| Lukachukai Mountains Mining District ..... | Cove, Navajo Nation, AZ ..... | EPA-HQ-OLEM-2023-0041. |
| Lot 46 Valley Gardens TCE .....            | Des Moines, IA .....          | EPA-HQ-OLEM-2023-0384. |
| Acme Steel Coke Plant .....                | Chicago, IL .....             | EPA-HQ-OLEM-2023-0385. |
| Exide Baton Rouge .....                    | Baton Rouge, LA .....         | EPA-HQ-OLEM-2023-0386. |
| Former Exide Technologies Laureldale ..... | Laureldale, PA .....          | EPA-HQ-OLEM-2023-0387. |

### B. What documents are available for review at the EPA Headquarters docket?

The headquarters docket for this rule contains the HRS score sheets, the documentation record describing the information used to compute the score, a list of documents referenced in the documentation record for each site and any other information used to support the NPL listing of the site. These documents are also available online at <https://www.regulations.gov>.

### C. What documents are available for review at the EPA regional dockets?

The EPA regional dockets contain all the information in the headquarters docket, plus the actual reference

documents containing the data principally relied upon by the EPA in calculating or evaluating the HRS score. These reference documents are available only in the regional dockets.

### D. How do I access the documents?

You may view the documents that support this rule online at <https://www.regulations.gov> or by contacting the EPA HQ docket or appropriate regional docket. The hours of operation for the headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the individual regional dockets for hours. For addresses for the headquarters and regional dockets, see

**ADDRESSES** section in the beginning portion of this preamble.

### E. How may I obtain a current list of NPL sites?

You may obtain a current list of NPL sites via the internet at <https://www.epa.gov/superfund/national-priorities-list-npl-sites-site-name>.

## III. Contents of This Final Rule

### A. Additions to the NPL

This final rule adds the following five sites to the General Superfund section of the NPL. These sites are being added to the NPL based on HRS scores of 28.50 or above.

## GENERAL SUPERFUND SECTION

| State    | Site name                                  | City/county          |
|----------|--|----------------------|
| AZ ..... | Lukachukai Mountains Mining District ..... | Cove, Navajo Nation. |
| IA ..... | Lot 46 Valley Gardens TCE .....            | Des Moines.          |
| IL ..... | Acme Steel Coke Plant .....                | Chicago.             |
| LA ..... | Exide Baton Rouge .....                    | Baton Rouge.         |
| PA ..... | Former Exide Technologies Laureldale ..... | Laureldale.          |

### B. What did the EPA do with the public comments it received?

The EPA reviewed all comments received on the sites in this rule and responded to all relevant comments. The EPA is adding five sites to the NPL in this final rule. The Lukachukai Mountains Mining District site was proposed for addition to the NPL on March 29, 2023 (88 FR 18499). The four remaining sites were proposed for

addition to the NPL on September 7, 2023 (88 FR 61492).

Comments on the Lukachukai Mountains Mining District site are being addressed in a response to comment support document available in the public docket concurrently with this rule. To view public comments on the site, as well as EPA's response, please refer to the support document available at <https://www.regulations.gov>.

The EPA received no comments on the Exide Baton Rouge site.

Below is a summary of significant comments received on the Lot 46 Valley Gardens TCE, Acme Steel Coke Plant, and Former Exide Technologies Laureldale sites.

### Lot 46 Valley Gardens TCE

For the Lot 46 Valley Gardens TCE site, the EPA received 198 comments that either supported or did not oppose

the addition of the site to the NPL. Additionally, the EPA received one comment that opposed the proposed NPL designation, and received one comment in the Lot 46 Valley Gardens TCE docket that was intended for the Acme Steel Coke Plant site, as discussed below. In support of, or non-opposition to, placement of the site on the NPL, multiple private citizens expressed concern about the possible health impacts associated with the groundwater contamination and the possible impacts to drinking water in the Des Moines, Iowa area. Many additional private citizens, that did not oppose the proposal to place the site on the NPL, submitted comments urging the EPA to address contamination that may be associated with the public water supply. Additionally, several commenters provided suggestions for sources of funding for site remediation. The EPA received one comment from a private citizen that expressed general opposition to the listing of the Site on the NPL because it did not affect that individual anonymous commenter.

In response, the EPA has added the Lot 46 Valley Gardens TCE site to the NPL. Listing makes a site eligible for remedial action funding under CERCLA, and the EPA will examine the site to determine what response, if any, is appropriate to ensure the protection of human health and the environment. Sources of funding are determined at a separate stage of the Superfund process after listing.

#### *Acme Steel Coke Plant*

The EPA received four comments supporting the listing of the Acme Steel Coke Plant site on the NPL and two comments that did not oppose the addition of the site to the NPL. The EPA received one additional comment in support of the proposal to add the site to the NPL that was submitted to the Lot 46 Valley Gardens TCE docket. Multiple commenters discussed specific topics related to the proposed NPL designation including five commenters that discussed the future cleanup and/or further investigation of the site; three commenters requested that remediation be expedited; and two commenters that expressed concern about possible impacts and/or delays to development opportunities at the Acme Steel Coke Plant property and other nearby areas.

In response, the EPA has added the Acme Steel Coke Plant site to the NPL. Listing makes a site eligible for remedial action funding under CERCLA, and the EPA will examine the site to determine what response, if any, is appropriate. Decisions regarding whether remedial actions will occur and which approach

to remediation should be employed, if any, occur in the remedial stage of the Superfund process.

Regarding impacts to development opportunities and other economic opportunities, economic factors are generally not considered in the assessment of whether a site belongs on the NPL. However, the EPA notes that there are both costs and benefits that can be associated with including a site on the NPL. Among the benefits are increased environmental protection resulting from the cleanup. Therefore, it is possible that any perceived or actual negative fluctuations in property values that may result from contamination may also be countered by positive fluctuations when a CERCLA investigation and any necessary cleanup are completed.

#### *Former Exide Technologies Laureldale*

The EPA received 10 comments from seven commenters that either supported or did not oppose the proposed placement of the Former Exide Technologies Laureldale site on the NPL. Two commenters that supported listing, the City of Reading and the Environmental Advisory Council of the City of Reading, Pennsylvania (EAC), commented that the extent of the site should be expanded to include the Bernhart Stream watershed. The EAC also submitted comments discussing possible environmental justice concerns associated with the Site. In addition, three commenters, including the City of Reading, expressed concern about the level of contamination. One commenter requested that the EPA continue community engagement efforts with regular updates and community education and inquired about the creation of a Community Advisory Group (CAG). The commenter also requested additional information regarding: remediation and cleanup standards, the Pennsylvania Department of Environmental Protection's (PADEP) role in remediation, the role of the Agency of Toxic Substances and Disease Registry (ATSDR), coordination with the local government, the impact of the planned sale for the former Exide Technologies property, economic impacts resulting from listing, costs of remediation, funding for remediation, and approaches to prevent future contamination. This commenter also provided comments expressing concern regarding a cleanup obligation for a different program, the risk associated with the site, and the liability of the former Exide Technologies company.

In response, the EPA has added the Former Exide Technologies Laureldale site to the NPL. Listing makes a site

eligible for remedial action funding under CERCLA, and the EPA will examine the site to determine what response, if any, is appropriate. Site boundaries are not established at the listing stage of the Superfund process. The initial identification and listing of a release based on a review of contamination at a specific area does not necessarily mean that the site boundaries are limited to that initially identified location. Until the site investigation process has been completed and a remedial action (if any) selected, the EPA can neither estimate the extent of contamination at the NPL site, nor describe the ultimate dimensions of the site. Thus, the preliminary description of site boundaries at the time of HRS scoring may be refined as more information is developed as to where the contamination has come to be located.

Additionally, regarding concerns about liability, liability is not determined at the listing stage of the Superfund process and is not considered in evaluating a site under the HRS.

Regarding the requests for additional information regarding aspects of the Superfund process from a private citizen, the EPA has responded to the citizen's request for information directly and notes that these questions generally pertain to aspects of the Superfund process that occur following placement on the NPL. The EPA has provided additional responses to these questions which are available online on the site progress profile at the following address: <https://semspub.epa.gov/src/document/03/2360119>.

#### **IV. Statutory and Executive Order Reviews**

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

##### *B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.



### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local or tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not directly from the act of placing a site on the NPL.

### E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

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

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

environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

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

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

### I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

### K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Provisions of the CRA or section 305 of CERCLA may alter the effective date of this regulation. Under 5 U.S.C. 801(b)(1), a rule shall not take effect, or continue in effect, if Congress enacts

(and the President signs) a joint resolution of disapproval, described under section 802. Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS v. Chadha*, 462 U.S. 919, 103 S. Ct. 2764 (1983), and *Bd. of Regents of the University of Washington v. EPA*, 86 F.3d 1214, 1222 (D.C. Cir. 1996), cast the validity of the legislative veto into question, the EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under either the CRA or CERCLA section 305 calls the effective date of this regulation into question, the EPA will publish a document of clarification in the **Federal Register**.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Barry N. Breen,**

*Principal Deputy Assistant Administrator,  
Office of Land and Emergency Management.*

For the reasons set out in the preamble, title 40, chapter I, part 300, of the Code of Federal Regulations is amended as follows:

### PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Amend table 1 of appendix B to part 300 by adding the entries for “AZ, Lukachukai Mountains Mining District”, “IA, Lot 46 Valley Gardens TCE”, “IL, Acme Steel Coke Plant”, “LA, Exide Baton Rouge”, and “PA, Former Exide Technologies Laureldale” in alphabetical order by State to read as follows:

### Appendix B to Part 300—National Priorities List



TABLE 1—GENERAL SUPERFUND SECTION

| State | Site name                            | City/county          | Notes (a) |
|-------|--------------------------------------|----------------------|-----------|
| AZ    | Lukachukai Mountains Mining District | Cove, Navajo Nation. |           |
| IA    | Lot 46 Valley Gardens TCE            | Des Moines.          |           |
| IL    | Acme Steel Coke Plant                | Chicago.             |           |
| LA    | Exide Baton Rouge                    | Baton Rouge.         |           |
| PA    | Former Exide Technologies Laureldale | Laureldale.          |           |

<sup>a</sup> A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

S = State top priority (included among the 100 top priority sites regardless of score).

P = Sites with partial deletion(s).

\* \* \* \* \*

[FR Doc. 2024-04781 Filed 3-6-24; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### 45 CFR Parts 170 and 171

RIN 0955-AA03

### Health Data, Technology, and Interoperability: Certification Program

#### Updates, Algorithm Transparency, and Information Sharing; Correction

**AGENCY:** Office of the National Coordinator for Health Information Technology (ONC), Department of Health and Human Services (HHS).

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects technical and typographical errors in the final rule entitled, “Health Data, Technology, and Interoperability: Certification Program Updates, Algorithm Transparency, and Information Sharing” that was published in the **Federal Register** on January 9, 2024, and has a stated effective of February 8, 2024.

**DATES:** The corrections in this document are effective on March 11, 2024.

**FOR FURTHER INFORMATION CONTACT:** Kate Tipping, Office of Policy, National Coordinator for Health Information Technology, 202-690-7151.

**SUPPLEMENTARY INFORMATION:**

## I. Background

In **Federal Register** document 2023-28857 (89 FR 1192) final rule entitled “Health Data, Technology, and Interoperability: Certification Program Updates, Algorithm Transparency, and Information Sharing” (HTI-1) (hereinafter referred to as the HTI-1 Final Rule), we identified technical and typographical errors following publication in the **Federal Register** on January 9, 2024. We first published a notice correcting certain errors on February 8, 2024 (89 FR 8546). In this document, we summarize and correct additional errors in the “Summary of Errors” and “Corrections of Errors” sections below.

## II. Summary of Errors

### A. Regulation Text Errors—Part 170—Health Information Technology Standards, Implementation Specifications, and Certification Criteria and Certification Programs for Health Information Technology

#### 1. ONC Certification Criteria for Health IT

On page 1429, third column, top of page, within amendatory instruction 9 for § 170.315, sub-instruction h., paragraph “(g)(3) introductory text” should read paragraph “(g)(3)(i).”

On page 1432, third column, halfway down the page, we inadvertently added the language, “User-centered design processes must be applied to each capability technology includes that is specified in the following certification criteria: paragraphs (a)(1) through (5), (9) until the criterion’s expiration date, and (14), and (b)(2), (3), and (11) of this

section.” to paragraph (g)(3) when the language should have been added to paragraph (g)(3)(i). While we had erroneously proposed (88 FR 23746, 23911) and then finalized the revision to paragraph (g)(3), we had intended to revise paragraph (g)(3)(i). This fact is evident by our discussion of revising the provision actually found in paragraph (g)(3)(i) to include the “DSI” certification criterion (45 CFR 170.315(b)(11)) in the preambles of the proposed (88 FR 23787) and final (89 FR 1256) rules. Paragraph (g)(3) only contains the title of the certification criterion (safety-enhanced design) and not the language referenced in preamble and specifically included in paragraph (g)(3)(i). Therefore, when we discussed revising the substance of paragraph (g)(3) to “apply to the new certification criterion proposed in § 170.315(b)(11) as well,” (88 FR 23787), we believe it was evident we intended to refer to (g)(3)(i), since there were no substantive requirements in paragraph (g)(3) that could be revised. We received no substantive feedback on the proposal (89 FR 1256) and then erroneously finalized the revised provision in (g)(3) rather than (g)(3)(i).

#### 2. Insights Condition and Maintenance of Certification

On page 1434, third column, beginning at the bottom half of the page, in § 170.407, and ending in the first column of page 1435, we inadvertently included incorrect paragraph designators (i) within paragraphs (a)(3)(iv), (v), (vi) and (vii). The (i) in these paragraphs should be deleted. We also inadvertently included the word “of” after the word “distinct” and

before “certified health IT” in paragraph (a)(3)(iv)(i), which should be removed.

**B. Regulation Text Errors—Part 171—Information Blocking**

On page 1437, third column, in amendatory instruction 22, we add subpart D. In subpart D, after the table of contents, we erroneously included the authority for the subpart, which is the same authority as for part 171 and all subparts under part 171, and was already included in amendatory instruction 17 on page 1435. Therefore, “Authority: 42 U.S.C. 300jj–52; 5 U.S.C. 552.” under subpart D table of contents should be removed.

**III. Waiver of Proposed Rulemaking, Comment Period, and Delay in Effective Date**

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. In addition, section 553(d) of the APA mandates a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date requirements. Section 553(b)(B) of the APA authorizes an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, section 553(d)(3) of the APA allows the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe this final rule correction does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This document corrects technical and typographical errors in the regulation text of the HTI–1 Final Rule, but does not make substantive changes to the policies that were adopted in the HTI–1 Final Rule. As a result, this final rule correction is intended to ensure that the information in the HTI–1 Final Rule accurately reflects the policies adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such procedures and requirements. Undertaking further notice and comment procedures to

incorporate the corrections in this document into the HTI–1 Final Rule would be contrary to the public interest because these corrections do not change the policies laid out in the HTI–1 Final Rule. This final rule correction is intended solely to ensure that the HTI–1 Final Rule accurately reflects the policies finalized in the HTI–1 Final Rule. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

**IV. Corrections of Errors**

In FR Doc. 2023–28857 appearing on page 1192 in the **Federal Register** of January 9, 2024, for the reasons stated above, the Office of the Secretary corrects the following:

1. On page 1429, in the third column, top of page, instruction 9.h to § 170.315 is corrected to read as follows:

■ 9. Amend § 170.315 by:

\* \* \* \* \*

■ h. Revising paragraphs (g)(3)(i), (g)(6)(i)(A) and (B), (g)(9)(i)(A)(1) and (2), (g)(10)(i)(A) and (B), (g)(10)(ii)(A) and (B), (g)(10)(iv)(A) and (B), (g)(10)(v)(A)(1)(i) and (ii), (g)(10)(v)(A)(2)(i) and (ii), (g)(10)(v)(B), and (g)(10)(vi) and (vii).

■ 2. On page 1432, in the third column, in amendatory instruction 9, in § 170.315 correct paragraph (g)(3) by removing the text following the paragraph heading and adding paragraph (g)(3)(i) to read as follows:

**§ 170.315 [Corrected]**

\* \* \* \* \*

(g) \* \* \*

(3) *Safety-enhanced design.* (i) User-centered design processes must be applied to each capability technology includes that is specified in the following certification criteria: paragraphs (a)(1) through (5), (9) (until the criterion’s expiration date), and (14) and (b)(2), (3), and (11) of this section.

\* \* \* \* \*

■ 3. On page 1434, in the third column, beginning at the bottom half of the page, in amendatory instruction 13, in § 170.407, correct paragraphs (a)(3)(iv), (v), (vi) and (vii) to read as follows:

**§ 170.407 [Corrected]**

(a) \* \* \*

(3) \* \* \*

(iv) *Use of FHIR in apps through certified health IT.* If a health IT developer has a Health IT Module certified to § 170.315(g)(10), then the health IT developer must submit responses on the number of requests made to distinct certified health IT

deployments that returned FHIR resources, number of distinct certified health IT deployments active at any time, the number of distinct deployments active at any time that returned FHIR resources in response to API calls from apps connected to certified health IT, including stratifying responses by the following:

(A) User type;

(B) FHIR resource; and

(C) US Core Implementation Guide version.

(v) *Use of FHIR bulk data access through certified health IT.* If a health IT developer has a Health IT Module certified to § 170.315(g)(10), then the health IT developer must submit responses for the total number of FHIR bulk data access requests completed through the certified health IT, and the number of distinct deployments of the certified health IT active at any time overall, and by whether at least one bulk data download request was completed.

(vi) *Immunization administrations electronically submitted to immunization information systems through certified health IT.* If a health IT developer has a Health IT Module certified to § 170.315(f)(1), then the health IT developer must submit responses for the use of certified health IT to electronically send immunizations administered to immunization information systems (IIS), including stratifying responses based on the following subgroups:

(A) IIS; and

(B) Age group.

(vii) *Immunization history and forecasts through certified health IT.* If a health IT developer has a Health IT Module certified to § 170.315(f)(1), then the health IT developer must submit responses for the use of certified health IT to query immunization history and forecast information from immunization information systems (IIS), including stratifying responses based on the following subgroup:

(A) IIS.

(B) [Reserved]

\* \* \* \* \*

**Subpart D [Amended]**

■ 4. On page 1437, in the third column, in amendatory instruction 22, correct subpart D by removing the authority.

**Elizabeth J. Gramling,**

*Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2024–04785 Filed 3–6–24; 8:45 am]

**BILLING CODE 4150–45–P**

# Proposed Rules

Federal Register

Vol. 89, No. 46

Thursday, March 7, 2024

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 966

[Doc. No. AMS–SC–23–0063]

#### Tomatoes Grown in Florida; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement a recommendation from the Florida Tomato Committee (Committee) to increase the assessment rate established for the 2023–2024 and subsequent fiscal periods from \$0.025 to \$0.035 per 25-pound container of tomatoes or equivalent. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by April 8, 2024.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be sent to the Docket Clerk electronically by Email: [MarketingOrderComment@usda.gov](mailto:MarketingOrderComment@usda.gov) or via the internet at: <https://www.regulations.gov>. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record and will be made available to the public and can be viewed at: <https://www.regulations.gov>. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:** Steven W. Kauffman, Marketing

Specialist, or Christian D. Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: [Steven.Kauffman@usda.gov](mailto:Steven.Kauffman@usda.gov) or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, Fax: (202) 720–8938, or Email: [Richard.Lower@usda.gov](mailto:Richard.Lower@usda.gov).

**SUPPLEMENTARY INFORMATION:** This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement No. 125 and Marketing Order No. 966, as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida. Part 966 referred to as “the Order” is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Committee locally administers the Order and is comprised of producers of fresh tomatoes operating within the area of production.

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

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

This proposed rule has been reviewed under Executive Order 12988—Civil Justice Reform. Under the Order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the proposed assessment rate would be applicable to all assessable tomatoes for the 2023–2024 fiscal period, and continue until amended, suspended, or terminated.

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

This proposed rule would increase the assessment rate for Florida tomatoes handled under the Order from \$0.025 per 25-pound container or equivalent, the rate that was established for the 2017–2018 and subsequent fiscal periods, to \$0.035 per 25-pound container or equivalent for the 2023–2024 and subsequent fiscal periods.

Sections 966.41 and 966.42 authorize the Committee, with the approval of

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

For the 2017–2018 and subsequent fiscal periods, the Committee recommended, and AMS approved, an assessment rate of \$0.025 per 25-pound container or equivalent of Florida tomatoes within the production area. That rate continues in effect from fiscal period to fiscal period until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other information available to AMS.

The Committee met on September 20, 2023, and unanimously recommended 2023–2024 fiscal period expenditures of \$1,155,764 and an assessment rate of \$0.035 per 25-pound container or equivalent of Florida tomatoes handled for the 2023–2024 and subsequent fiscal periods. In comparison, last fiscal period's budgeted expenditures were \$1,156,773. The proposed assessment rate of \$0.035 per 25-pound container or equivalent is \$0.01 higher than the rate currently in effect. The Committee has used financial reserves in previous seasons to help pay for budgeted expenses. Increasing the assessment rate would allow the Committee to replenish and maintain their financial reserves at the desired level of \$250,000. The Committee projects handler receipts of approximately 22,000,000 25-pound containers or equivalent of assessable Florida tomatoes for the 2023–2024 fiscal period, an increase from the 21,815,350 containers handled for the 2022–2023 fiscal period.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include \$350,000 for research; \$340,000 for education and promotions; and \$277,393 for management and staff. By comparison, budgeted expenses for these items during the 2022–2023 fiscal period were \$350,000; \$330,000; and \$274,105, respectively.

At the current assessment rate of \$0.025, the expected 22,000,000 25-pound containers or equivalent of assessable Florida tomatoes would generate \$550,000 in assessment revenue (22,000,000 multiplied by \$0.025 assessment rate). By increasing the assessment rate by \$0.01 to \$0.035,

assessment income would generate \$770,000 in assessment revenue (22,000,000 multiplied by \$0.035 assessment rate) for the 2023–2024 fiscal period. This amount should be appropriate to ensure the Committee has sufficient revenue, along with an anticipated \$265,501 in funds awarded through the Foreign Agricultural Service Market Access Program and \$129,071 in other income, to fully fund its recommended 2023–2024 fiscal period budgeted expenditures, while maintaining financial reserves at around \$250,000.

The Committee derived the recommended assessment rate by considering anticipated fiscal period expenses, expected shipments of Florida tomatoes, anticipated grant funds, and the amount of funds available in financial reserve. Income derived from handler assessments (\$770,000), Foreign Agricultural Service Market Access Program grants (\$265,501), and other sources including administrative and interest income (\$129,071), would be adequate to cover budgeted expenses (\$1,155,764). Funds available in the financial reserve (currently about \$241,000) would be kept within the maximum permitted by the Order (approximately one fiscal period's expenses as authorized in § 966.44).

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

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed

rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are 38 handlers of Florida tomatoes subject to regulation under the Order and approximately 50 producers of Florida tomatoes in the production area. At the time this analysis was prepared, the Small Business Administration (SBA) defined small agricultural producers of noncitrus fruit as those having annual receipts of less than \$3,500,000 (NAICS code 111339, Other Non-citrus Fruit Farming), and small agricultural service firms as those whose annual receipts are less than \$34,000,000 (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201).

According to data from the AMS Market News Tomato Fax Report, the average price for fresh Florida tomatoes for the 2022–2023 season was approximately \$21.94 per 25-pound carton, with total shipments of around 21,815,350 cartons. Based on the average terminal market price and shipment information, the number of handlers, and assuming a normal distribution, the majority of tomato handlers have estimated average annual receipts of significantly less than \$34,000,000 (\$21.94 multiplied by 21,815,350 cartons equals \$478,628,779, divided by 38 handlers equals \$12,595,494 per handler).

In addition, based on data from the National Agricultural Statistics Service (NASS), the average price producers received for fresh Florida tomatoes at the point of first sale during the 2022–2023 season was approximately \$11.08 per 25-pound carton, with total shipments of around 21,815,350 cartons. Using the average price producers received and shipment information, the number of producers, and assuming a normal distribution, the majority of producers have estimated average annual receipts greater than \$3.5 million (\$11.08 multiplied by 21,815,350 cartons equals \$241,714,078, divided by 50 producers equals \$4,834,282 per producer). Thus, a majority of producers of Florida tomatoes may be classified as large entities, while a majority of handlers may be classified as small entities.

This proposal would increase the assessment rate collected from handlers for the 2023–2024 and subsequent fiscal periods from \$0.025 to \$0.035 per 25-pound container or equivalent of Florida tomatoes. The Committee unanimously recommended 2023–2024 fiscal period expenditures of \$1,155,764 and an assessment rate of \$0.035 per 25-pound container or equivalent of Florida tomatoes. The proposed assessment rate of \$0.035 is \$0.01 higher than the current rate. The Committee expects industry to handle 22,000,000 25-pound containers or equivalent of Florida tomatoes during the 2023–2024 fiscal period. Thus, the \$0.035 rate per 25-pound container or equivalent should provide \$770,000 in assessment income (22,000,000 containers multiplied by \$0.035). The Committee expects to use an anticipated \$265,501 in funds awarded through the Foreign Agricultural Service Market Access Program and \$129,071 in other sources to cover remaining expenses. Income derived from handler assessments, Foreign Agricultural Service Market Access Program grants, and other sources including member fees and interest income, should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2023–2024 fiscal period include \$350,000 for research; \$340,000 for education and promotions; and \$277,393 for management and staff. By comparison, budgeted expenses for these items during the 2022–2023 fiscal period were \$350,000; \$330,000; and \$274,105, respectively.

The Committee recommended increasing the assessment rate after drawing down financial reserves in previous seasons. The Committee desires to maintain a financial reserve of around \$250,000, and without increasing the assessment rate, the Committee would not be able to maintain financial reserves at this level. The Committee estimates production for the 2023–2024 fiscal period to be 22,000,000 25-pound containers or equivalent of Florida tomatoes. At the current assessment rate, assessment income would equal \$550,000 (22,000,000 containers multiplied by \$0.025). By increasing the assessment rate by \$0.01, assessment income would be \$770,000 (22,000,000 containers multiplied by \$0.035). This amount, along with Foreign Agricultural Service Market Access Program grants, and other income, should provide sufficient funds to meet anticipated 2023–2024 fiscal period expenses, while

maintaining financial reserves at around \$250,000.

Prior to arriving at this budget and assessment rate, the Committee considered maintaining the current assessment rate of \$0.025. However, the Committee would need to further draw down reserves to meet its expenses. The Committee members did not want to utilize additional funds from reserves to meet 2023–2024 fiscal period expenses. Consequently, the alternative of maintaining the current assessment rate was rejected.

A review of historical and preliminary information pertaining to the upcoming fiscal period indicates the average grower price for the 2023–2024 season should be approximately \$11.00 per 25-pound container of tomatoes or equivalent. Therefore, the estimated assessment revenue for the 2023–2024 crop year as a percentage of total grower revenue would be about 0.32 percent (\$0.035 divided by \$11.00 multiplied by 100).

This proposed action would increase the assessment obligation imposed on Florida tomato handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs are expected to be offset by the benefits derived by the operations of the Order.

The Committee's meetings are widely publicized throughout the Florida tomato industry and all interested persons are invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the September 20, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

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

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce

information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <https://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

A 30-day comment period is provided to allow interested persons to comment on this proposed rule. All written comments timely received will be considered before a final determination is made on this proposed rule.

#### List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 966 as follows:

#### **PART 966—TOMATOES GROWN IN FLORIDA**

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

#### **§ 966.234 Assessment rate.**

On and after August 1, 2023, an assessment rate of \$0.035 per 25-pound container or equivalent is established for Florida tomatoes.

**Erin Morris,**  
*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2024–04788 Filed 3–6–24; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 33**

[Docket No. FAA-2022-1641; Notice No. 33-22-01-SC]

**Special Conditions: BETA Technologies Inc. Model H500A Electric Engines**

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

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for BETA Technologies Inc. (BETA) Model H500A electric engines that operate using electrical technology installed on the aircraft, for use as an aircraft engine. These engines have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards applicable to aircraft engines. The design feature is the use of an electric motor, motor controller, and high-voltage systems as the primary source of propulsion for an aircraft. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Send comments on or before April 8, 2024.

**ADDRESSES:** Send comments identified by Docket No. FAA-2022-1641 using any of the following methods:

- *Federal eRegulations Portal:* Go to <https://www.regulations.gov/> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building, Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building, Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at 202-493-2251.

*Docket:* Background documents or comments received may be read at <https://www.regulations.gov/> at any time. Follow the online instructions for

accessing the docket or go to Docket Operations in Room W12-140 of the West Building, Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Mark Bouyer, Engine and Propulsion Standards Section, AIR-625, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts 01803; telephone (781) 238-7755; [mark.bouyer@faa.gov](mailto:mark.bouyer@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these proposed special conditions based on the comments received.

**Privacy**

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR) 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov/>, including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

**Confidential Business Information**

Confidential Business Information 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 document 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 document, 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 the indicated comments will not be placed in the public docket of these proposed special conditions. Send submissions

containing CBI to the individual listed in the **FOR FURTHER INFORMATION**

**CONTACT** section below. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these proposed special conditions.

**Background**

On January 27, 2022, BETA applied for a type certificate for its Model H500A electric engines. The BETA Model H500A electric engine initially will be used as a "pusher" electric engine in a single-engine airplane that will be certified separately from the engine. A typical normal category general aviation aircraft locates the engine at the front of the fuselage. In this configuration, the propeller attached to the engine pulls the airplane along its flightpath. A pusher engine is located at the rear of the fuselage, so the propeller attached to the engine pushes the aircraft instead of pulling the aircraft.

The BETA Model H500A electric engine is comprised of a direct drive, radial-flux, permanent-magnet motor, divided in two sections, each section having a three-phase motor, and one electric power inverter controlling each three-phase motor. The magnets are arranged in a Halbach magnet array, and the stator is a concentrated, tooth-wound configuration. A stator is the stationary component in the electric engine that surrounds the rotating hardware; for example: the propeller shaft, that consists of a bonded core with coils of insulated wire, known as the windings. When alternating current is applied to the coils of insulated wire in a stator, a rotating magnetic field is created, which provides the motive force for the rotating components.

**Type Certification Basis**

Under the provisions of 14 CFR 21.17(a)(1), generally, BETA must show that Model H500A engines meet the applicable provisions of 14 CFR part 33 in effect on the date of application for a type certificate.

If the Administrator finds that the applicable airworthiness regulations (e.g., part 33) do not contain adequate or appropriate safety standards for the BETA Model H500A engines because of a novel or unusual design feature, special conditions may be prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other engine model that incorporates the same novel or unusual design feature, these special conditions

would also apply to the other engine model under § 21.101.

The FAA issues special conditions, as defined in § 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

In addition to the applicable airworthiness regulations and special conditions, the BETA Model H500A engines must comply with the noise certification requirements of 14 CFR part 36.

#### **Novel or Unusual Design Features**

The BETA Model H500A engines will incorporate the following novel or unusual design features:

An electric motor, motor controller, and high-voltage electrical systems that are used as the primary source of propulsion for an aircraft.

#### **Discussion**

Electric propulsion technology is substantially different from the technology used in previously certificated turbine and reciprocating engines. Therefore, these engines introduce new safety concerns that need to be addressed in the certification basis.

A growing interest within the aviation industry involves electric propulsion technology. As a result, international agencies and industry stakeholders formed Committee F39 under ASTM International, formerly known as American Society for Testing and Materials, to identify the appropriate technical criteria for aircraft engines using electrical technology that has not been previously type certificated for aircraft propulsion systems. ASTM International is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services. ASTM International published ASTM F3338–18, “Standard Specification for Design of Electric Propulsion Units for General Aviation Aircraft,” in December 2018.<sup>1</sup> The FAA used the technical criteria from the ASTM F3338–18, the published Special Conditions No. 33–022–SC for the magniX USA, Inc. Model magni350 and magni650 engines, and information from the BETA Model H500A engine design to develop special conditions that establish an equivalent level of safety to that required by part 33.

#### ***Part 33 Was Developed for Gas-Powered Turbine and Reciprocating Engines***

Aircraft engines make use of an energy source to drive mechanical systems that provide propulsion for the aircraft. Energy can be generated from various sources such as petroleum and natural gas. The turbine and reciprocating aircraft engines certificated under part 33 use aviation fuel for an energy source. The reciprocating and turbine engine technology that was anticipated in the development of part 33 converts oxygen and fuel to energy using an internal combustion system, which generates heat and mass flow of combustion products for turning shafts that are attached to propulsion devices such as propellers and ducted fans. Part 33 regulations set forth standards for these engines and mitigate potential hazards resulting from failures and malfunctions. The nature, progression, and severity of engine failures are tied closely to the technology that is used in the design and manufacture of aircraft engines. These technologies involve chemical, thermal, and mechanical systems. Therefore, the existing engine regulations in part 33 address certain chemical, thermal, and mechanically induced failures that are specific to air and fuel combustion systems operating with cyclically loaded, high-speed, high-temperature, and highly stressed components.

#### ***BETA’s Proposed Electric Engines Are Novel or Unusual***

The existing part 33 airworthiness standards for aircraft engines date back to 1965. As discussed in the previous paragraphs, these airworthiness standards are based on fuel-burning reciprocating and turbine engine technology. The BETA Model H500A engines are neither turbine nor reciprocating engines. These engines have a novel or unusual design feature, which is the use of electrical sources of energy instead of fuel to drive the mechanical systems that provide propulsion for aircraft. The BETA aircraft engine is subject to operating conditions produced by chemical, thermal, and mechanical components working together, but the operating conditions are unlike those observed in internal combustion engine systems. Therefore, part 33 does not contain adequate or appropriate safety standards for the BETA Model H500A engine’s novel or unusual design feature.

BETA’s proposed aircraft engines will operate using electrical power instead of air and fuel combustion to propel the aircraft. These electric engines will be

designed, manufactured, and controlled differently than turbine or reciprocating aircraft engines. They will be built with an electric motor, motor controller, and high-voltage electrical systems that draw energy from electrical storage or electrical energy generating systems. The electric motor is a device that converts electrical energy into mechanical energy by electric current flowing through windings (wire coils) in the motor, producing a magnetic field that interacts with permanent magnets mounted on the engine’s main rotor. The controller is a system that consists of two main functional elements: the motor controller and an electric power inverter to drive the motor.<sup>2</sup> The high-voltage electrical system is a combination of wires and connectors that integrate the motor and controller.

In addition, the technology comprising these high-voltage and high-current electronic components introduces potential hazards that do not exist in turbine and reciprocating aircraft engines. For example, high-voltage transmission lines, electromagnetic shields, magnetic materials, and high-speed electrical switches are necessary to use the physical properties of an electric engine for propelling an aircraft. However, this technology also exposes the aircraft to potential failures that are not common to gas-powered turbine and reciprocating engines, technological differences which could adversely affect safety if not addressed through these proposed special conditions.

#### ***BETA’s Proposed Electric Engines Require a Mix of Part 33 Standards and Special Conditions***

Although the electric aircraft engines BETA proposes use novel or unusual design features that the FAA did not envisage during the development of its existing part 33 airworthiness standards, these engines share some basic similarities, in configuration and function, to engines that use the combustion of air and fuel, and therefore require similar provisions to prevent common hazards (e.g., fire, uncontained high energy debris, and loss of thrust control). However, the primary failure concerns and the probability of exposure to these common hazards are different for the proposed BETA Model H500A electric engine. This creates a need to develop special conditions to ensure the engine’s safety and reliability.

<sup>2</sup> Sometimes the entire system is referred to as an inverter. Throughout this document, it is referred to as the controller.

<sup>1</sup> <https://www.astm.org/Standards/F3338.html>.



The requirements in part 33 ensure that the design and construction of aircraft engines, including the engine control systems, are proper for the type of aircraft engines considered for certification. However, part 33 does not fully address aircraft engines like the BETA Model H500A, which operates using electrical technology as the primary means of propelling the aircraft. This necessitates the development of special conditions that provide adequate airworthiness standards for these aircraft engines.

The requirements in part 33, subpart B, are applicable to reciprocating and turbine aircraft engines. Subparts C and D are applicable to reciprocating aircraft engines. Subparts E through G are applicable to turbine aircraft engines. As such, subparts B through G do not adequately address the use of aircraft engines that operate using electrical technology. Special conditions are needed to ensure a level of safety for electric engines that is commensurate with these subparts, as those regulatory requirements do not contain adequate or appropriate safety standards for electric aircraft engines that are used to propel aircraft.

#### **FAA Proposed Special Conditions for the BETA Engine Design**

*Applicability:* Proposed special condition no. 1 would require BETA to comply with part 33, except for those airworthiness standards specifically and explicitly applicable only to reciprocating and turbine aircraft engines.

*Engine Ratings and Operating Limitations:* Proposed special condition no. 2 would, in addition to compliance with § 33.7(a), require BETA to establish engine operating limits related to the power, torque, speed, and duty cycles specific to BETA Model H500A engines. The duty or duty cycle is a statement of the load(s) to which the engine is subjected, including, if applicable, starting, no-load and rest, and de-energized periods, including their durations or cycles and sequence in time. This special condition also requires BETA to declare cooling fluid grade or specification, power supply requirements, and to establish any additional ratings that are necessary to define the BETA Model H500A engine capabilities required for safe operation of the engine.

*Materials:* Proposed special condition no. 3 would require BETA to comply with § 33.15, which sets requirements for the suitability and durability of materials used in the engine, and which would otherwise be applicable only to

reciprocating and turbine aircraft engines.

*Fire Protection:* Proposed special condition no. 4 would require BETA to comply with § 33.17, which sets requirements to protect the engine and certain parts and components of the airplane against fire, and which would otherwise be applicable only to reciprocating and turbine aircraft engines. Additionally, this proposed special condition would require BETA to ensure that the high-voltage electrical wiring interconnect systems that connect the controller to the motor are protected against arc faults. An arc fault is a high-power discharge of electricity between two or more conductors. This discharge generates heat, which can break down the wire's insulation and trigger an electrical fire. Arc faults can range in power from a few amps up to thousands of amps and are highly variable in strength and duration.

*Durability:* Proposed special condition no. 5 would require the design and construction of BETA Model H500A engines to minimize the development of an unsafe condition between maintenance intervals, overhaul periods, and mandatory actions described in the Instructions for Continued Airworthiness (ICA).

*Engine Cooling:* Proposed special condition no. 6 would require BETA to comply with § 33.21, which requires the engine design and construction to provide necessary cooling, and which would otherwise be applicable only to reciprocating and turbine aircraft engines. Additionally, this proposed special condition would require BETA to document the cooling system monitoring features and usage in the engine installation manual (see § 33.5) if cooling is required to satisfy the safety analysis described in proposed special condition no. 17. Loss of cooling to an aircraft engine that operates using electrical technology can result in rapid overheating and abrupt engine failure, with critical consequences to safety.

*Engine Mounting Attachments and Structure:* Proposed special condition no. 7 would require BETA and the proposed design to comply with § 33.23, which requires the applicant to define, and the proposed design to withstand, certain load limits for the engine mounting attachments and related engine structure. These requirements would otherwise be applicable only to reciprocating and turbine aircraft engines.

*Accessory Attachments:* Proposed special condition no. 8 would require the proposed design to comply with § 33.25, which sets certain design, operational, and maintenance

requirements for the engine's accessory drive and mounting attachments, and which would otherwise be applicable only to reciprocating and turbine aircraft engines.

*Rotor Overspeed:* Proposed special condition no. 9 would require BETA to establish by test, validated analysis, or a combination of both, that—

(1) the rotor overspeed must not result in a burst, rotor growth, or damage that results in a hazardous engine effect;

(2) rotors must possess sufficient strength margin to prevent burst; and

(3) operating limits must not be exceeded in service.

The proposed special condition associated with rotor overspeed is necessary because of the differences between turbine engine technology and the technology of these electric engines. Turbine rotor speed is driven by expanding gas and aerodynamic loads on rotor blades. Therefore, the rotor speed or overspeed results from interactions between thermodynamic and aerodynamic engine properties. The speed of an electric engine is directly controlled by electric current, and an electromagnetic field created by the controller. Consequently, electric engine rotor response to power demand and overspeed-protection systems is quicker and more precise. Also, the failure modes that can lead to overspeed between turbine engines and electric engines are vastly different, and therefore this special condition is necessary.

*Engine Control Systems:* Proposed special condition no. 10(b) would require BETA to ensure that these engines do not experience any unacceptable operating characteristics, such as unstable speed or torque control, or exceed any of their operating limitations.

The FAA originally issued § 33.28 at amendment 33–15 to address the evolution of the means of controlling the fuel supplied to the engine, from carburetors and hydro-mechanical controls to electronic control systems. These electronic control systems grew in complexity over the years, and as a result, the FAA amended § 33.28 at amendment 33–26 to address these increasing complexities. The controller that forms the controlling system for these electric engines is significantly simpler than the complex control systems used in modern turbine engines. The current regulations for engine control are inappropriate for electric engine control systems; therefore, the proposed special condition no. 10(b) associated with controlling these engines is necessary.



Proposed special condition no. 10(c) would require BETA to develop and verify the software and complex electronic hardware used in programmable logic devices, using proven methods that ensure that the devices can provide the accuracy, precision, functionality, and reliability commensurate with the hazard that is being mitigated by the logic. RTCA DO-254, "Design Assurance Guidance for Airborne Electronic Hardware," dated April 19, 2000,<sup>3</sup> distinguishes between complex and simple electronic hardware.

Proposed special condition no. 10(d) would require data from assessments of all functional aspects of the control system to prevent errors that could exist in software programs that are not readily observable by inspection of the code. Also, BETA must use methods that will result in the expected quality that ensures the engine control system performs the intended functions throughout the declared operational envelope.

The environmental limits referred to in proposed special condition no. 10(e) include temperature, vibration, high-intensity radiated fields (HIRF), and others addressed in RTCA DO-160G, "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments" dated December 08, 2010, which includes "DO-160G Change 1—Environmental Conditions and Test Procedures for Airborne Equipment" dated December, 16, 2014, and "DO-357—User Guide: Supplement to DO-160G" dated December 16, 2014.<sup>4</sup> Proposed special condition 10(e) would require BETA to demonstrate by system or component tests in proposed special condition no. 27 any environmental limits that cannot be adequately substantiated by the endurance demonstration, validated analysis, or a combination thereof.

Proposed special condition no. 10(f) would require BETA to evaluate various control system failures to assure that such failures will not lead to unsafe engine conditions. The FAA issued Advisory Circular (AC) AC 33.28-3, "Guidance Material for 14 CFR § 33.28, Engine Control Systems," on May 23, 2014, for reciprocating and turbine engines.<sup>5</sup> Paragraph 6-2 of this AC provides guidance for defining an engine control system failure when showing compliance with the

requirements of § 33.28. AC 33.28-3 also includes objectives for control system integrity requirements, criteria for a loss of thrust (or power) control (LOT/LOPC) event, and an acceptable LOT/LOPC rate. The electrical and electronic failures and failure rates did not account for electric engines when the FAA issued this AC, and therefore performance-based special conditions are proposed to allow fault accommodation criteria to be developed for electric engines.

The phrase "in the full-up configuration" used in proposed special condition no. 10(f)(2) refers to a system without any fault conditions present. The electronic control system must, when in the full-up configuration, be single-fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events.

The term "local" in the context of "local events" used in proposed special condition no. 10(f)(4) means failures or malfunctions leading to events in the intended aircraft installation such as fire, overheat, or failures leading to damage to engine control system components. These local events must not result in a hazardous engine effect due to engine control system failures or malfunctions.

Proposed special condition no. 10(g) would require BETA to conduct a safety assessment of the control system to support the safety analysis in proposed special condition no. 17. This control system safety assessment provides engine response to failures, and rates of these failures that can be used at the aircraft-level safety assessment.

Proposed special condition no. 10(h) requires BETA to provide appropriate protection devices or systems to ensure that engine operating limits will not be exceeded in service.

Proposed special condition no. 10(i) is necessary to ensure that the controllers are self-sufficient and isolated from other aircraft systems. The aircraft-supplied data supports the analysis at the aircraft level to protect the aircraft from common mode failures that could lead to major propulsion power loss. The exception "other than power command signals from the aircraft," noted in proposed special condition no. 10(i), is based on the FAA's determination that the engine controller has no reasonable means to determine the validity of any in-range signals from the electrical power system. In many cases, the engine control system can detect a faulty signal from the aircraft, but the engine control system typically accepts the power command signal as a valid value.

The term "independent" in the context of "fully independent engine systems" referenced in proposed special condition no. 10(i) means the controllers should be self-sufficient and isolated from other aircraft systems or provide redundancy that enables the engine control system to accommodate aircraft data system failures. In the case of loss, interruption, or corruption of aircraft-supplied data, the engine must continue to function in a safe and acceptable manner without hazardous engine effects.

The term "accommodated," in the context of "detected and accommodated," referenced in proposed special condition 10(i)(2) is to assure that, upon detecting a fault, the system continues to function safely.

Proposed special condition no. 10(j) would require BETA to show that the loss of electric power from the aircraft will not cause the electric engine to malfunction in a manner hazardous to the aircraft. The total loss of electric power to the electric engine may result in an engine shutdown.

*Instrument Connection:* Proposed special condition no. 11 would require BETA to comply with § 33.29(a), (e), and (g), which set certain requirements for the connection and installation of instruments to monitor engine performance. The remaining requirements in § 33.29 apply only to technologies used in reciprocating and turbine aircraft engines.

Instrument connections (wires, wire insulation, potting, grounding, connector designs, etc.) must not introduce unsafe features or characteristics to the aircraft. Proposed special condition no. 11 would require the safety analysis to include potential hazardous effects from failures of instrument connections to function properly. The outcome of this analysis might identify the need for design enhancements or additional ICA to ensure safety.

*Stress Analysis:* Section 33.62 requires applicants to perform a stress analysis on each turbine engine. This regulation is explicitly applicable only to turbine engines and turbine engine components, and it is not appropriate for the BETA Model H500A engines. However, the FAA proposes that a stress analysis particular to these electric engines is necessary to account for stresses resulting from electric technology used in the engine.

Proposed special condition no. 12 would require a mechanical, thermal, and electrical stress analysis to show that the engine has a sufficient design margin to prevent unacceptable operating characteristics. Also, the

<sup>3</sup> [https://my.rtca.org/NC\\_Product?id=a1B36000001IcJTEAS](https://my.rtca.org/NC_Product?id=a1B36000001IcJTEAS).

<sup>4</sup> [https://my.rtca.org/NC\\_Product?id=a1B36000001IcnSEAS](https://my.rtca.org/NC_Product?id=a1B36000001IcnSEAS).

<sup>5</sup> [https://www.faa.gov/documentLibrary/media/Advisory\\_Circular/AC\\_33\\_28-3.pdf](https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC_33_28-3.pdf).

applicant must determine the maximum stresses in the engine by tests, validated analysis, or a combination thereof, and show that they do not exceed minimum material properties.

*Critical and Life-Limited Parts:*

Proposed special condition no. 13 would require BETA to show whether rotating or moving components, bearings, shafts, static parts, and non-redundant mount components should be classified, designed, manufactured, and managed throughout their service life as critical or life-limited parts.

The term “low-cycle fatigue,” referenced in proposed special condition no. 13(a)(2), is a decline in material strength from exposure to cyclic stress at levels beyond the stress threshold the material can sustain indefinitely. This threshold is known as the “material endurance limit.” Low-cycle fatigue typically causes a part to sustain plastic or permanent deformation during the cyclic loading and can lead to cracks, crack growth, and fracture. Engine parts that operate at high temperatures and high mechanical stresses simultaneously can experience low-cycle fatigue coupled with creep. Creep is the tendency of a metallic material to permanently move or deform when it is exposed to the extreme thermal conditions created by hot combustion gasses, and substantial physical loads such as high rotational speeds and maximum thrust. Conversely, high-cycle fatigue is caused by elastic deformation, small strains caused by alternating stress, and a much higher number of load cycles compared to the number of cycles that cause low-cycle fatigue.

The engineering plan referenced in proposed special condition no. 13(b)(1) informs the manufacturing and service management processes of essential information that ensures the life limit of a part is valid. The engineering plan provides methods for verifying the characteristics and qualities assumed in the design data using methods that are suitable for the part criticality. The engineering plan informs the manufacturing process of the attributes that affect the life of the part. The engineering plan, manufacturing plan, and service management plan are related in that assumptions made in the engineering plan are linked to how a part is manufactured and how that part is maintained in service. For example, environmental effects on life limited electric engine parts, such as humidity, might not be consistent with the assumptions used to design the part. BETA must ensure that the engineering plan is complete, available, and acceptable to the Administrator.

The term “manufacturing plan,” referenced in proposed special condition no. 13(b)(2), is the collection of data required to translate documented engineering design criteria into physical parts, and to verify that the parts comply with the properties established by the design data. Because engines are not intentionally tested to failure during a certification program, documents and processes used to execute production and quality systems required by § 21.137 guarantee inherent expectations for performance and durability. These systems limit the potential manufacturing outcomes to parts that are consistently produced within design constraints.

The manufacturing plan and service management plan ensure that essential information from the engineering plan, such as the design characteristics that safeguard the integrity of critical and life-limited parts, is consistently produced and preserved over the lifetime of those parts. The manufacturing plan includes special processes and production controls to prevent inclusion of manufacturing-induced anomalies, which can degrade the part’s structural integrity. Examples of manufacturing-induced anomalies are material contamination, unacceptable grain growth, heat-affected areas, and residual stresses.

The service-management plan ensures the method and assumptions used in the engineering plan to determine the part’s life remain valid by enabling corrections identified from in-service experience, such as service-induced anomalies and unforeseen environmental effects, to be incorporated into the design process. The service-management plan also becomes the ICA for maintenance, overhaul, and repairs of the part.

*Lubrication System:* Proposed special condition no. 14 would require BETA to ensure that the lubrication system is designed to function properly between scheduled maintenance intervals and to prevent contamination of the engine bearings. This proposed special condition would also require BETA to demonstrate the unique lubrication attributes and functional capability of the BETA Model H500A engine design.

The corresponding part 33 regulations include provisions for lubrication systems used in reciprocating and turbine engines. The part 33 requirements account for safety issues associated with specific reciprocating and turbine engine system configurations. These regulations are not appropriate for the BETA Model H500A engines. For example, electric engines do not have a crankcase or lubrication oil sump. Electric engine

bearings are sealed, so they do not require an oil circulation system. The lubrication system in these engines is also independent of the propeller pitch control system. Therefore, proposed special condition no. 14 incorporates only certain requirements from the part 33 regulations.

*Power Response:* Proposed special condition no. 15 would require the design and construction of the BETA Model H500A engines to enable an increase from the minimum—

(1) power setting to the highest rated power without detrimental engine effects, and

(2) within a time interval appropriate for the intended aircraft application.

The engine control system governs the increase or decrease in power in combustion engines to prevent too much (or too little) fuel from being mixed with air before combustion. Due to the lag in rotor response time, improper fuel/air mixtures can result in engine surges, stalls, and exceedances above rated limits and durations. Failure of the combustion engine to provide thrust, maintain rotor speeds below rotor burst thresholds, and keep temperatures below limits can have engine effects detrimental to the aircraft. Similar detrimental effects are possible in the BETA Model H500A engines, but the causes are different. Electric engines with reduced power response time can experience insufficient thrust to the aircraft, shaft over-torque, and overstressed rotating components, propellers, and critical propeller parts. Therefore, this proposed special condition is necessary.

*Continued Rotation:* Proposed special condition no. 16 would require BETA to design the Model H500A engines such that, if the main rotating systems continue to rotate after the engine is shut down while in-flight, this continued rotation will not result in any hazardous engine effects.

The main rotating system of the BETA Model H500A engines consists of the rotors, shafts, magnets, bearings, and wire windings that convert electrical energy to shaft torque. For the initial aircraft application, this rotating system must continue to rotate after the power source to the engine is shut down. The safety concerns associated with this proposed special condition are substantial asymmetric aerodynamic drag that can cause aircraft instability, loss of control, and reduced efficiency; and may result in a forced landing or inability to continue safe flight.

*Safety Analysis:* Proposed special condition no. 17 would require BETA to comply with § 33.75(a)(1) and (a)(2), which require the applicant to conduct

a safety analysis of the engine, and which would otherwise be applicable only to turbine aircraft engines. Additionally, this proposed special condition would require BETA to assess its engine design to determine the likely consequences of failures that can reasonably be expected to occur. The failure of such elements, and associated prescribed integrity requirements, must be stated in the safety analysis.

A primary failure mode is the manner in which a part is most likely going to fail. Engine parts that have a primary failure mode, a predictable life to the failure, and a failure consequence that results in a hazardous effect, are life-limited or critical parts. Some life-limited or critical engine parts can fail suddenly in their primary failure mode, from prolonged exposure to normal engine environments such as temperature, vibration, and stress, if those engine parts are not removed from service before the damage mechanisms progress to a failure. Due to the consequence of failure, these parts are not allowed to be managed by on-condition or probabilistic means because the probability of failure cannot be sensibly estimated in numerical terms. Therefore, the parts are managed by compliance with integrity requirements, such as mandatory maintenance (life limits, inspections, inspection techniques), to ensure the qualities, features, and other attributes that prevent the part from failing in its primary failure mode are preserved throughout its service life. For example, if the number of engine cycles to failure are predictable and can be associated with specific design characteristics, such as material properties, then the applicant can manage the engine part with life limits.

Complete or total power loss is not assumed to be a minor engine event, as it is in the turbine engine regulation § 33.75, to account for experience data showing a potential for higher hazard levels from power loss events in single-engine general aviation aircraft. The criteria in these proposed special conditions apply to an engine that continues to operate at partial power after a single electrical or electronic fault or failure. Total loss of power is classified at the aircraft level using proposed special condition nos. 10(g) and 33(h).

**Ingestion:** Proposed special condition no. 18 would require BETA to ensure that these engines will not experience unacceptable power loss or hazardous engine effects from ingestion. The associated regulations for turbine engines, §§ 33.76, 33.77, and 33.78, are based on potential performance impacts

and damage from birds, ice, rain, and hail being ingested into a turbine engine that has an inlet duct, which directs air into the engine for combustion, cooling, and thrust. By contrast, the BETA electric engines are not configured with inlet ducts.

An “unacceptable” power loss, as used in proposed special condition no. 18(b), is such that the power or thrust required for safe flight of the aircraft becomes unavailable to the pilot. The specific amount of power loss that is required for safe flight depends on the aircraft configuration, speed, altitude, attitude, atmospheric conditions, phase of flight, and other circumstances where the demand for thrust is critical to safe operation of the aircraft.

**Liquid and Gas Systems:** Proposed special condition no. 19 would require BETA to ensure that systems used for lubrication or cooling of engine components are designed and constructed to function properly. Also, if a system is not self-contained, the interfaces to that system would be required to be defined in the engine installation manual. Systems for the lubrication or cooling of engine components can include heat exchangers, pumps, fluids, tubing, connectors, electronic devices, temperature sensors and pressure switches, fasteners and brackets, bypass valves, and metallic chip detectors. These systems allow the electric engine to perform at extreme speeds and temperatures for durations up to the maintenance intervals without exceeding temperature limits or predicted deterioration rates.

**Vibration Demonstration:** Proposed special condition no. 20 would require BETA to ensure the engine—

(1) is designed and constructed to function throughout its normal operating range of rotor speeds and engine output power without inducing excessive stress caused by engine vibration, and

(2) design undergoes a vibration survey.

The vibration demonstration is a survey that characterizes the vibratory attributes of the engine. It verifies that the stresses from vibration do not impose excessive force or result in natural frequency responses on the aircraft structure. The vibration demonstration also ensures internal vibrations will not cause engine components to fail. Excessive vibration force occurs at magnitudes and forcing functions or frequencies, which may result in damage to the aircraft. Stress margins to failure add conservatism to the highest values predicted by analysis for additional protection from failure

caused by influences beyond those quantified in the analysis. The result of the additional design margin is improved engine reliability that meets prescribed thresholds based on the failure classification. The amount of margin needed to achieve the prescribed reliability rates depends on an applicant’s experience with a product. The FAA considers the reliability rates when deciding how much vibration is “excessive.”

**Overtorque:** Proposed special condition no. 21 would require BETA to demonstrate that the engine is capable of continued operation without the need for maintenance if it experiences a certain amount of overtorque.

BETA’s proposed electric engine converts electrical energy to shaft torque, which is used for propulsion. The electric motor, controller, and high-voltage systems control the engine torque. When the pilot commands power or thrust, the engine responds to the command and adjusts the shaft torque to meet the demand. During the transition from one power or thrust setting to another, a small delay, or latency, occurs in the engine response time. While the engine dwells in this time interval, it can continue to apply torque until the command to change the torque is applied by the engine control. The allowable amount of overtorque during operation depends on the engine’s response to changes in the torque command throughout its operating range.

**Calibration Assurance:** Proposed special condition no. 22 would require BETA to subject the engine to calibration tests to establish its power characteristics and the conditions both before and after the endurance and durability demonstrations specified in proposed special condition nos. 23 and 26. The calibration test requirements specified in § 33.85 only apply to the endurance test specified in § 33.87, which is applicable only to turbine engines. The FAA proposes that the methods used for accomplishing those tests for turbine engines is not the best approach for electric engines. The calibration tests in § 33.85 have provisions applicable to ratings that are not relevant to the BETA Model H500A engines. Proposed special condition no. 22 would allow BETA to demonstrate the endurance and durability of the electric engine either together or independently, whichever is most appropriate for the engine qualities being assessed. Consequently, the proposed special condition applies the calibration requirement to both the endurance and durability tests.

**Endurance Demonstration:** Proposed special condition no. 23 would require BETA to perform an endurance demonstration test that is acceptable to the Administrator. The Administrator will evaluate the extent to which the test exposes the engine to failures that could occur when the engine is operated at up to its rated values, and determine if the test is sufficient to show that the engine design will not exhibit unacceptable effects in service, such as significant performance deterioration, operability restrictions, and engine power loss or instability, when it is run repetitively at rated limits and durations in conditions that represent extreme operating environments.

**Temperature Limit:** Proposed special condition no. 24 would require BETA to ensure the engine can endure operation at its temperature limits plus an acceptable margin. An “acceptable margin,” as used in the proposed special condition, is the amount of temperature above that required to prevent the least capable engine allowed by the type design, as determined by § 33.8, from failing due to temperature-related causes when operating at the most extreme engine and environmental thermal conditions.

**Operation Demonstration:** Proposed special condition no. 25 would require the engine to demonstrate safe operating characteristics throughout its declared flight envelope and operating range. Engine operating characteristics define the range of functional and performance values the BETA Model H500A engines can achieve without incurring hazardous effects. The characteristics are requisite capabilities of the type design that qualify the engine for installation into aircraft and that determine aircraft installation requirements. The primary engine operating characteristics are assessed by the tests and demonstrations that would be required by these special conditions. Some of these characteristics are shaft output torque, rotor speed, power consumption, and engine thrust response. The engine performance data BETA will use to certify the engine must account for installation loads and effects. These are aircraft-level effects that could affect the engine characteristics that are measured when the engine is tested on a stand or in a test cell. These effects could result from elevated inlet cowl temperatures, aircraft maneuvers, flowstream distortion, and hard landings. For example, an engine that is run in a sea-level, static test facility could demonstrate more capability for some operating characteristics than it will have when operating on an aircraft in

certain flight conditions. Discoveries like this during certification could affect proposed engine ratings and operating limits. Therefore, the installed performance defines the engine performance capabilities.

**Durability Demonstration:** Proposed special condition no. 26 would require BETA to subject the engine to a durability demonstration. The durability demonstration must show that the engine is designed and constructed to minimize the development of any unsafe condition between maintenance intervals or between engine replacement intervals if maintenance or overhaul is not defined. The durability demonstration also verifies that the ICA is adequate to ensure the engine, in its fully deteriorated state, continues to generate rated power or thrust, while retaining operating margins and sufficient efficiency, to support the aircraft safety objectives. The amount of deterioration an engine can experience is restricted by operating limitations and managed by the engine ICA. Section 33.90 specifies how maintenance intervals are established; it does not include provisions for an engine replacement. Electric engines and turbine engines deteriorate differently; therefore, BETA will use different test effects to develop maintenance, overhaul, or engine replacement information for their electric engine.

**System and Component Tests:** Proposed special condition no. 27 would require BETA to show that the systems and components of the engine would perform their intended functions in all declared engine environments and operating conditions.

Sections 33.87 and 33.91, which are specifically applicable to turbine engines, have conditional criteria to decide if additional tests will be required after the engine tests. The criteria are not suitable for electric engines. Part 33 associates the need for additional testing with the outcome of the § 33.87 endurance test because it is designed to address safety concerns in combustion engines. For example, § 33.91(b) requires the establishment of temperature limits for components that require temperature-controlling provisions, and § 33.91(a) requires additional testing of engine systems and components where the endurance test does not fully expose internal systems and components to thermal conditions that verify the desired operating limits. Exceeding temperature limits is a safety concern for electric engines. The FAA proposes that the § 33.87 endurance test might not be the best way to achieve the highest thermal conditions for all the electronic components of electric

engines because heat is generated differently in electronic systems than it is in turbine engines. Additional safety considerations also need to be addressed in the test. Therefore, proposed special condition no. 27 would be a performance-based requirement that allows BETA to determine when engine systems and component tests are necessary and to determine the appropriate limitations of those systems and components used in the BETA Model H500A electric engine.

**Rotor Locking Demonstration:** Proposed special condition no. 28 would require the engine to demonstrate reliable rotor locking performance and that no hazardous effects will occur if the engine uses a rotor locking device to prevent shaft rotation.

Some engine designs enable the pilot to prevent a propeller shaft or main rotor shaft from turning while the engine is running, or the aircraft is in-flight. This capability is needed for some installations that require the pilot to confirm functionality of certain flight systems before takeoff. The proposed BETA engine installations are not limited to aircraft that will not require rotor locking. Section 33.92 prescribes a test that may not include the appropriate criteria to demonstrate sufficient rotor locking capability for these engines. Therefore, this special condition is necessary.

The proposed special condition does not define “reliable” rotor locking but would allow BETA to classify the hazard as major or minor and assign the appropriate quantitative criteria that meet the safety objectives required by special condition no. 17 and the applicable portions of § 33.75.

**Teardown Inspection:** Proposed special condition no. 29 would require BETA to perform a teardown or non-teardown evaluation after the endurance, durability, and overtorque demonstrations, based on the criteria proposed in special condition no. 29(a) or (b).

Proposed special condition no. 29(b) includes restrictive criteria for “non-teardown evaluations” to account for electric engines, sub-assemblies, and components that cannot be disassembled without destroying them. Some electrical and electronic components like BETA’s are constructed in an integrated fashion that precludes the possibility of tearing them down without destroying them. The proposed special condition indicates that, if a teardown cannot be performed in a non-destructive manner, then the inspection or replacement intervals must be established based on the endurance and durability demonstrations. The

procedure for establishing maintenance should be agreed upon between the applicant and the FAA prior to running the relevant tests. Data from the endurance and durability tests may provide information that can be used to determine maintenance intervals and life limits for parts. However, if life limits are required, the lifing procedure is established by special condition no. 13, Critical and Life-Limited Parts, which corresponds to § 33.70. Therefore, the procedure used to determine which parts are life-limited, and how the life limits are established, requires FAA approval, as it does for § 33.70. Sections 33.55 and 33.93 do not contain similar requirements because reciprocating and turbine engines can be completely disassembled for inspection.

**Containment:** Proposed special condition no. 30 would require the engine to have containment features that protect against likely hazards from rotating components, unless BETA can show the margin to rotor burst does not justify the need for containment features. Rotating components in electric engines are typically disks, shafts, bearings, seals, orbiting magnetic components, and the assembled rotor core. However, if the margin to rotor burst does not unconditionally rule out the possibility of a rotor burst, then the proposed special condition would require BETA to assume a rotor burst could occur and design the stator case to contain the failed rotors, and any components attached to the rotor that are released during the failure. In addition, BETA must also determine the effects of subsequent damage precipitated by a main rotor failure and characterize any fragments that are released forward or aft of the containment features. Further, decisions about whether the BETA engine requires containment features, and the effects of any subsequent damage following a rotor burst, should be based on test or validated analysis. The fragment energy levels, trajectories, and size are typically documented in the installation manual because the aircraft will need to account for the effects of a rotor failure in the aircraft design. The intent of this proposed special condition is to prevent hazardous engine effects from structural failure of rotating components and parts that are built into the rotor assembly.

**Operation with a Variable Pitch Propeller:** Proposed special condition no. 31 would require BETA to conduct functional demonstrations, including feathering, negative torque, negative thrust, and reverse thrust operations, as applicable, based on the propeller's or fan's variable pitch functions that are planned for use on these electric

engines, using a representative propeller. The requirements of § 33.95 prescribe tests based on the operating characteristics of turbine engines equipped with variable pitch propellers, which include thrust response times, engine stall, propeller shaft overload, loss of thrust control, and hardware fatigue. The electric engines BETA proposes have different operating characteristics that substantially affect their susceptibility to these and other potential failures typical of turbine engines. Because BETA's proposed electric engines may be installed with a variable pitch propeller, the proposed special condition is necessary.

**General Conduct of Tests:** Proposed special condition no. 32 would require BETA to—

(1) include scheduled maintenance in the engine ICA;

(2) include any maintenance, in addition to the scheduled maintenance, that was needed during the test to satisfy the applicable test requirements; and

(3) conduct any additional tests that the Administrator finds necessary, as warranted by the test results.

For example, certification endurance test shortfalls might be caused by omitting some prescribed engine test conditions, or from accelerated deterioration of individual parts arising from the need to force the engine to operating conditions that drive the engine above the engine cycle values of the type design. If an engine part fails during a certification test, the entire engine might be subjected to penalty runs, with a replacement or newer part design installed on the engine, to meet the test requirements. Also, the maintenance performed to replace the part, so that the engine could complete the test, would be included in the engine ICA. In another example, if the applicant replaces a part before completing an engine certification test because of a test facility failure and can substantiate the part to the Administrator through bench testing, they might not need to substantiate the part design using penalty runs with the entire engine.

The term “excessive” is used to describe the frequency of unplanned engine maintenance, and the frequency of unplanned test stoppages, to address engine issues that prevent the engine from completing the tests in proposed special condition nos. 32(b)(1) and (2), respectively. Excessive frequency is an objective assessment from the FAA's analysis of the amount of unplanned maintenance needed for an engine to complete a certification test. The FAA's assessment may include the reasons for

the unplanned maintenance, such as the effects test facility equipment may have on the engine, the inability to simulate a realistic engine operating environment, and the extent to which an engine requires modifications to complete a certification test. In some cases, the applicant may be able to show that unplanned maintenance has no effect on the certification test results, or they might be able to attribute the problem to the facility or test-enabling equipment that is not part of the type design. In these cases, the ICA will not be affected. However, if BETA cannot reconcile the amount of unplanned service, then the FAA may consider the unplanned maintenance required during the certification test to be “excessive,” prompting the need to add the unplanned maintenance to mandatory ICA to comply with the certification requirements.

**Engine electrical systems:** The current requirements in part 33 for electronic engine control systems were developed to maintain an equivalent level of safety demonstrated by engines that operate with hydromechanical engine control systems. At the time § 33.28 was codified, the only electrical systems used on turbine engines were low-voltage, electronic engine control systems (EEC) and high-energy spark-ignition systems. Electric aircraft engines use high-voltage, high-current electrical systems and components that are physically located in the motor and motor controller. Therefore, the existing part 33 control system requirements do not adequately address all the electrical systems used in electric aircraft engines. Proposed special condition no. 33 is established using the existing engine control systems requirement as a basis. It applies applicable airworthiness criteria from § 33.28 and incorporates airworthiness criteria that recognize and focus on the electrical power system used in the engine.

Proposed special condition no. 33(b) would ensure that all aspects of an electrical system, including generation, distribution, and usage, do not experience any unacceptable operating characteristics.

Proposed special condition no. 33(c) would require the electrical power distribution aspects of the electrical system to provide the safe transfer of electrical energy throughout the electric engine.

Proposed special condition no. 33(d) would require the engine electrical system to be designed such that the loss, malfunction, or interruption of the electrical power source, or power conditions that exceed design limits,

will not result in a hazardous engine effect.

Proposed special condition no. 33(e) requires BETA to identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine, or electrical power supplied from the engine to the aircraft via energy regeneration, and any other characteristics necessary for safe operation of the engine.

Proposed special condition no. 33(f) requires BETA to demonstrate that systems and components will operate properly up to environmental limits, using special conditions, when such limits cannot be adequately substantiated by the endurance demonstration, validated analysis, or a combination thereof. The environmental limits referred to in this proposed special condition include temperature, vibration, HIRF, and others addressed in RTCA DO-160G, "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments."

Proposed special condition 33(g) would require BETA to evaluate various electric engine system failures to ensure that these failures will not lead to unsafe engine conditions. The evaluation would include single-fault tolerance, would ensure no single electrical or electronic fault or failure would result in hazardous engine effects, and ensure that any failure or malfunction leading to local events in the intended aircraft application do not result in certain hazardous engine effects. The special condition would also implement integrity requirements, criteria for LOTC/LOPC events, and an acceptable LOTC/LOPC rate.

Proposed special condition 33(h) would require BETA to conduct a safety assessment of the engine electrical system to support the safety analysis in special condition no. 17. This safety assessment provides engine response to failures, and rates of these failures, that can be used at the aircraft safety assessment level.

These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards for reciprocating and turbine aircraft engines.

### Applicability

As discussed above, these proposed special conditions are applicable to BETA Model H500A engines. Should BETA apply at a later date for a change to the type certificate to include another

model on the same type certificate, incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

### Conclusion

This action affects only BETA Model H500A engines. It is not a rule of general applicability.

### List of Subjects in 14 CFR Part 33

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

### Authority Citation

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702, 44704.

### The Proposed Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for BETA Technologies Inc. Model H500A engines. The applicant must also comply with the certification procedures set forth in title 14, Code of Federal Regulations (14 CFR) part 21.

#### (1) Applicability

(a) Unless otherwise noted in these special conditions, the engine design must comply with the airworthiness standards for aircraft engines set forth in 14 CFR part 33, except for those airworthiness standards that are specifically and explicitly applicable only to reciprocating and turbine aircraft engines or as specified herein.

(b) The applicant must comply with this part using a means of compliance, which may include consensus standards, accepted by the Administrator.

(c) The applicant requesting acceptance of a means of compliance must provide the means of compliance to the FAA in a form and manner acceptable to the Administrator.

#### (2) Engine Ratings and Operating Limits

In addition to § 33.7(a), the engine ratings and operating limits must be established and included in the type certificate data sheet based on:

- (a) Shaft power, torque, rotational speed, and temperature for:
  - (1) Rated takeoff power;
  - (2) Rated maximum continuous power; and
  - (3) Rated maximum temporary power and associated time limit.

(b) Duty cycle and the rating at that duty cycle. The duty cycle must be declared in the engine type certificate data sheet.

(c) Cooling fluid grade or specification.

(d) Power-supply requirements.

(e) Any other ratings or limitations that are necessary for the safe operation of the engine.

#### (3) Materials

The engine design must comply with § 33.15.

#### (4) Fire Protection

The engine design must comply with § 33.17(b) through (g).

(a) The design and construction of the engine and the materials used must minimize the probability of the occurrence and spread of fire during normal operation and failure conditions and must minimize the effect of such a fire.

(b) High-voltage electrical wiring interconnect systems must be protected against arc faults that can lead to hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions. Any non-protected electrical wiring interconnects must be analyzed to show that arc faults do not cause a hazardous engine effect.

#### (5) Durability

The engine design and construction must minimize the development of an unsafe condition of the engine between maintenance intervals, overhaul periods, or mandatory actions described in the applicable ICA.

#### (6) Engine Cooling

The engine design and construction must comply with § 33.21. In addition, if cooling is required to satisfy the safety analysis as described in special condition no. 17 of these special conditions, the cooling system monitoring features and usage must be documented in the engine installation manual.

#### (7) Engine Mounting Attachments and Structure

The engine mounting attachments and related engine structures must comply with § 33.23.

#### (8) Accessory Attachments

The engine must comply with § 33.25.

#### (9) Overspeed

(a) A rotor overspeed must not result in a burst, rotor growth, or damage that results in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions. Compliance with this paragraph must be shown by test, validated analysis, or a combination of both. Applicable assumed rotor speeds must be declared and justified.

(b) Rotors must possess sufficient strength with a margin to burst above

certified operating conditions and above failure conditions leading to rotor overspeed. The margin to burst must be shown by test, validated analysis, or a combination thereof.

(c) The engine must not exceed the rotor speed operational limitations that could affect rotor structural integrity.

#### (10) Engine Control Systems

(a) *Applicability.* The requirements of this special condition apply to any system or device that is part of the engine type design that controls, limits, monitors, or protects engine operation, and is necessary for the continued airworthiness of the engine.

(b) *Engine control.* The engine control system must ensure that the engine does not experience any unacceptable operating characteristics or exceed its operating limits, including in failure conditions where the fault or failure results in a change from one control mode to another, from one channel to another, or from the primary system to the back-up system, if applicable.

(c) *Design Assurance.* The software and complex electronic hardware, including programmable logic devices, must be—

(1) Designed and developed using a structured and systematic approach that provides a level of assurance for the logic commensurate with the hazard associated with the failure or malfunction of the systems in which the devices are located; and

(2) Substantiated by a verification methodology acceptable to the Administrator.

(d) *Validation.* All functional aspects of the control system must be substantiated by test, analysis, or a combination thereof, to show that the engine control system performs the intended functions throughout the declared operational envelope.

(e) *Environmental Limits.* Environmental limits that cannot be adequately substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in special condition no. 27 of these special conditions.

(f) *Engine control system failures.* The engine control system must—

(1) Have a maximum rate of loss of power control (LOPC) that is suitable for the intended aircraft application. The estimated LOPC rate must be specified in the engine installation manual;

(2) When in the full-up configuration, be single-fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions; and

(4) Ensure failures or malfunctions that lead to local events in the aircraft do not result in hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, due to engine control system failures or malfunctions.

(g) *System safety assessment.* The applicant must perform a system safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure that the assessment of the engine control system safety is valid. The rates of hazardous and major faults must be declared in the engine installation manual.

(h) *Protection systems.* The engine control devices and systems' design and function, together with engine instruments, operating instructions, and maintenance instructions, must ensure that engine operating limits that can lead to a hazard will not be exceeded in service.

(i) *Aircraft supplied data.* Any single failure leading to loss, interruption, or corruption of aircraft-supplied data (other than power-command signals from the aircraft), or aircraft-supplied data shared between engine systems within a single engine or between fully independent engine systems, must—

(1) Not result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions, for any engine installed on the aircraft; and

(2) Be able to be detected and accommodated by the control system.

(j) *Engine control system electrical power.*

(1) The engine control system must be designed such that the loss, malfunction, or interruption of the control system electrical power source will not result in a hazardous engine effect, unacceptable transmission of erroneous data, or continued engine operation in the absence of the control function. Hazardous engine effects are defined in special condition no. 17(d)(2) of these special conditions. The engine control system must be capable of resuming normal operation when aircraft-supplied power returns to within the declared limits.

(2) The applicant must identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from the aircraft to the engine control system,

including transient and steady-state voltage limits, and any other characteristics necessary for safe operation of the engine.

#### (11) Instrument Connection

The applicant must comply with § 33.29(a), (e), and (g).

(a) In addition, as part of the system safety assessment of special condition nos. 10(g) and 33(h) of these special conditions, the applicant must assess the possibility and subsequent effect of incorrect fit of instruments, sensors, or connectors. Where practicable, the applicant must take design precautions to prevent incorrect configuration of the system.

(b) The applicant must provide instrumentation enabling the flight crew to monitor the functioning of the engine cooling system unless evidence shows that:

(1) Other existing instrumentation provides adequate warning of failure or impending failure;

(2) Failure of the cooling system would not lead to hazardous engine effects before detection; or

(3) The probability of failure of the cooling system is extremely remote.

#### (12) Stress Analysis

(a) A mechanical and thermal stress analysis, as well as an analysis of the stress caused by electromagnetic forces, must show a sufficient design margin to prevent unacceptable operating characteristics and hazardous engine effects as defined in special condition no. 17(d)(2) of these special conditions.

(b) Maximum stresses in the engine must be determined by test, validated analysis, or a combination thereof, and must be shown not to exceed minimum material properties.

#### (13) Critical and Life-Limited Parts

(a) The applicant must show, by a safety analysis or means acceptable to the Administrator, whether rotating or moving components, bearings, shafts, static parts, and non-redundant mount components should be classified, designed, manufactured, and managed throughout their service life as critical or life-limited parts.

(1) Critical part means a part that must meet prescribed integrity specifications to avoid its primary failure, which is likely to result in a hazardous engine effect as defined in special condition no. 17(d)(2) of these special conditions.

(2) Life-limited parts may include but are not limited to a rotor or major structural static part, the failure of which can result in a hazardous engine effect, as defined in special condition



no. 17(d)(2) of these special conditions, due to a low-cycle fatigue (LCF) mechanism. A life limit is an operational limitation that specifies the maximum allowable number of flight cycles that a part can endure before the applicant must remove it from the engine.

(b) In establishing the integrity of each critical part or life-limited part, the applicant must provide to the Administrator the following three plans for approval:

(1) an engineering plan, as defined in § 33.70 (a);

(2) a manufacturing plan, as defined in § 33.70 (b); and

(3) a service-management plan, as defined in § 33.70 (c).

#### (14) Lubrication System

(a) The lubrication system must be designed and constructed to function properly between scheduled maintenance intervals in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) The lubrication system must be designed to prevent contamination of the engine bearings and lubrication system components.

(c) The applicant must demonstrate by test, validated analysis, or a combination thereof, the unique lubrication attributes and functional capability of (a) and (b).

#### (15) Power Response

(a) The design and construction of the engine, including its control system, must enable an increase—

(1) From the minimum power setting to the highest rated power without detrimental engine effects;

(2) From the minimum obtainable power while in-flight and while on the ground to the highest rated power within a time interval determined to be appropriate for the intended aircraft application; and

(3) From the minimum torque to the highest rated torque without detrimental engine effects in the intended aircraft application.

(b) The results of (a)(1), (a)(2), and (a)(3) of this special condition must be included in the engine installation manual.

#### (16) Continued Rotation

If the design allows any of the engine main rotating systems to continue to rotate after the engine is shut down while in-flight, this continued rotation must not result in any hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions.

#### (17) Safety Analysis

(a) The applicant must comply with § 33.75(a)(1) and (a)(2) using the failure definitions in special condition no. 17(d) of these special conditions.

(b) The primary failure of certain single elements cannot be sensibly estimated in numerical terms. If the failure of such elements is likely to result in hazardous engine effects, then compliance may be shown by reliance on the prescribed integrity requirements of § 33.15 and special condition nos. 9 and 13 of these special conditions, as applicable. These instances must be stated in the safety analysis.

(c) The applicant must comply with § 33.75(d) and (e) using the failure definitions in special condition no. 17(d) of these special conditions, and the ICA in § 33.4.

(d) Unless otherwise approved by the Administrator, the following definitions apply to the engine effects when showing compliance with this condition:

(1) A minor engine effect does not prohibit the engine from performing its intended functions in a manner consistent with § 33.28(b)(1)(i), (b)(1)(iii), and (b)(1)(iv), and the engine complies with the operability requirements of special condition no. 15 and special condition no. 25 of these special conditions, as appropriate.

(2) The engine effects in § 33.75(g)(2) are hazardous engine effects with the addition of:

(i) Electrocution of the crew, passengers, operators, maintainers, or others; and

(ii) Blockage of cooling systems that could cause the engine effects described in § 33.75(g)(2) and special condition 17(d)(2)(i) of these special conditions.

(3) Any other engine effect is a major engine effect.

(e) The intended aircraft application must be taken into account when performing the safety analysis.

(f) The results of the safety analysis, and the assumptions about the aircraft application used in the safety analysis, must be documented in the engine installation manual.

#### (18) Ingestion

(a) Rain, ice, and hail ingestion must not result in an abnormal operation such as shutdown, power loss, erratic operation, or power oscillations throughout the engine operating range.

(b) Ingestion from other likely sources (birds, induction system ice, foreign objects—ice slabs) must not result in hazardous engine effects defined by special condition no. 17(d)(2) of these special conditions, or unacceptable power loss.

(c) If the design of the engine relies on features, attachments, or systems that the installer may supply, for the prevention of unacceptable power loss or hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, following potential ingestion, then the features, attachments, or systems must be documented in the engine installation manual.

#### (19) Liquid and Gas Systems

(a) Each system used for lubrication or cooling of engine components must be designed and constructed to function properly in all flight attitudes and atmospheric conditions in which the engine is expected to operate.

(b) If a system used for lubrication or cooling of engine components is not self-contained, the interfaces to that system must be defined in the engine installation manual.

(c) The applicant must establish by test, validated analysis, or a combination of both that all static parts subject to significant pressure loads will not:

(1) Exhibit permanent distortion beyond serviceable limits, or exhibit leakage that could create a hazardous condition when subjected to normal and maximum working pressure with margin;

(2) Exhibit fracture or burst when subjected to the greater of maximum possible pressures with margin.

(d) Compliance with special condition no. 19(c) of these special conditions must take into account:

(1) The operating temperature of the part;

(2) Any other significant static loads in addition to pressure loads;

(3) Minimum properties representative of both the material and the processes used in the construction of the part; and

(4) Any adverse physical geometry conditions allowed by the type design, such as minimum material and minimum radii.

(e) Approved coolants and lubricants must be listed in the engine installation manual.

#### (20) Vibration Demonstration

(a) The engine must be designed and constructed to function throughout its normal operating range of rotor speeds and engine output power, including defined exceedances, without inducing excessive stress in any of the engine parts because of vibration and without imparting excessive vibration forces to the aircraft structure.

(b) Each engine design must undergo a vibration survey to establish that the



vibration characteristics of those components subject to induced vibration are acceptable throughout the declared flight envelope and engine operating range for the specific installation configuration. The possible sources of the induced vibration that the survey must assess are mechanical, aerodynamic, acoustical, internally induced electromagnetic, installation induced effects that can affect the engine vibration characteristics, and likely environmental effects. This survey must be shown by test, validated analysis, or a combination thereof.

#### (21) Overtorque

When approval is sought for a transient maximum engine overtorque, the applicant must demonstrate by test, validated analysis, or a combination thereof, that the engine can continue operation after operating at the maximum engine overtorque condition without maintenance action. Upon conclusion of overtorque tests conducted to show compliance with this special condition, or any other tests that are conducted in combination with the overtorque test, each engine part or individual groups of components must meet the requirements of special condition no. 29 of these special conditions.

#### (22) Calibration Assurance

Each engine must be subjected to calibration tests to establish its power characteristics, and the conditions both before and after the endurance and durability demonstrations specified in special conditions nos. 23 and 26 of these special conditions.

#### (23) Endurance Demonstration

The applicant must subject the engine to an endurance demonstration, acceptable to the Administrator, to demonstrate the engine's limit capabilities. The endurance demonstration must include increases and decreases of the engine's power settings, energy regeneration, and dwellings at the power settings or energy regeneration for sufficient durations that produce the extreme physical conditions the engine experiences at rated performance levels, operational limits, and at any other conditions or power settings that are required to verify the limit capabilities of the engine.

#### (24) Temperature Limit

The engine design must demonstrate its capability to endure operation at its temperature limits plus an acceptable margin. The applicant must quantify and justify the margin to the

Administrator. The demonstration must be repeated for all declared duty cycles and ratings, and operating environments, that would impact temperature limits.

#### (25) Operation Demonstration

The engine design must demonstrate safe operating characteristics, including but not limited to power cycling, starting, acceleration, and overspeeding throughout its declared flight envelope and operating range. The declared engine operational characteristics must account for installation loads and effects.

#### (26) Durability Demonstration

The engine must be subjected to a durability demonstration to show that each part of the engine has been designed and constructed to minimize any unsafe condition of the system between overhaul periods, or between engine replacement intervals if the overhaul is not defined. This test must simulate the conditions in which the engine is expected to operate in service, including typical start-stop cycles, to establish when the initial maintenance is required.

#### (27) System and Component Tests

The applicant must show that systems and components that cannot be adequately substantiated in accordance with the endurance demonstration or other demonstrations will perform their intended functions in all declared environmental and operating conditions.

#### (28) Rotor Locking Demonstration

If shaft rotation is prevented by locking the rotor(s), the engine must demonstrate:

- (a) Reliable rotor locking performance;
- (b) Reliable rotor unlocking performance; and
- (c) That no hazardous engine effects, as specified in special condition no. 17(d)(2) of these special conditions, will occur.

#### (29) Teardown Inspection

- (a) Teardown evaluation.

(1) After the endurance and durability demonstrations have been completed, the engine must be completely disassembled. Each engine component and lubricant must be eligible for continued operation in accordance with the information submitted for showing compliance with § 33.4.

(2) Each engine component, having an adjustment setting and a functioning characteristic that can be established independent of installation on or in the engine, must retain each setting and

functioning characteristic within the established and recorded limits at the beginning of the endurance and durability demonstrations.

(b) Non-Teardown evaluation. If a teardown cannot be performed for all engine components in a non-destructive manner, then the inspection or replacement intervals for these components and lubricants must be established based on the endurance and durability demonstrations and must be documented in the ICA in accordance with § 33.4.

#### (30) Containment

The engine must be designed and constructed to protect against likely hazards from rotating components as follows—

(a) The design of the stator case surrounding rotating components must provide for the containment of the rotating components in the event of failure, unless the applicant shows that the margin to rotor burst precludes the possibility of a rotor burst.

(b) If the margin to burst shows that the stator case must have containment features in the event of failure, then the stator case must provide for the containment of the failed rotating components. The applicant must define by test, validated analysis, or a combination thereof, and document, in the engine installation manual, the energy level, trajectory, and size of fragments released from damage caused by the main-rotor failure, and that pass forward or aft of the surrounding stator case.

#### (31) Operation With Variable Pitch Propeller

The applicant must conduct functional demonstrations including feathering, negative torque, negative thrust, and reverse thrust operations, as applicable, with a representative propeller. These demonstrations may be conducted in a manner acceptable to the Administrator as part of the endurance, durability, and operation demonstrations.

#### (32) General Conduct of Tests

(a) Maintenance of the engine may be made during the tests in accordance with the service and maintenance instructions submitted in compliance with § 33.4.

(b) The applicant must subject the engine or its parts to any additional tests that the Administrator finds necessary if—

- (1) The frequency of engine service is excessive;
- (2) The number of stops due to engine malfunction is excessive;

(3) Major engine repairs are needed; or

(4) Replacement of an engine part is found necessary during the tests, or due to the teardown inspection findings.

(c) Upon completion of all demonstrations and testing specified in these special conditions, the engine and its components must be—

- (1) Within serviceable limits;
- (2) Safe for continued operation; and
- (3) Capable of operating at declared ratings while remaining within limits.

**(33) Engine Electrical Systems**

(a) *Applicability.* Any system or device that provides, uses, conditions, or distributes electrical power, and is part of the engine type design, must provide for the continued airworthiness of the engine, and must maintain electric engine ratings.

(b) *Electrical systems.* The electrical system must ensure the safe generation and transmission of power, and electrical load shedding, and that the engine does not experience any unacceptable operating characteristics or exceed its operating limits.

(c) *Electrical power distribution.*

(1) The engine electrical power distribution system must be designed to provide the safe transfer of electrical energy throughout the electrical power plant. The system must be designed to provide electrical power so that the loss, malfunction, or interruption of the electrical power source will not result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions or detrimental engine effects in the intended aircraft application.

(2) The system must be designed and maintained to withstand normal and abnormal conditions during all ground and flight operations.

(3) The system must provide mechanical or automatic means of isolating a faulted electrical energy generation or storage device from affecting the safe transmission of electric energy to the electric engine.

(d) *Protection systems.* The engine electrical system must be designed such that the loss, malfunction, interruption of the electrical power source, or power conditions that exceed design limits, will not result in a hazardous engine effect, as defined in special condition no. 17(d)(2) of these special conditions.

(e) *Electrical power characteristics.* The applicant must identify and declare, in the engine installation manual, the characteristics of any electrical power supplied from—

- (1) the aircraft to the engine electrical system, for starting and operating the

engine, including transient and steady-state voltage limits, or

(2) the engine to the aircraft via energy regeneration, and any other characteristics necessary for safe operation of the engine.

(f) *Environmental limits.*

Environmental limits that cannot adequately be substantiated by endurance demonstration, validated analysis, or a combination thereof must be demonstrated by the system and component tests in special condition no. 27 of these special conditions.

(g) *Electrical system failures.* The engine electrical system must—

(1) Have a maximum rate of loss of power control (LOPC) that is suitable for the intended aircraft application;

(2) When in the full-up configuration, be single-fault tolerant, as determined by the Administrator, for electrical, electrically detectable, and electronic failures involving LOPC events;

(3) Not have any single failure that results in hazardous engine effects; and

(4) Ensure failures or malfunctions that lead to local events in the intended aircraft application do not result in hazardous engine effects, as defined in special condition no. 17(d)(2) of these special conditions, due to electrical system failures or malfunctions.

(h) *System safety assessment.* The applicant must perform a system safety assessment. This assessment must identify faults or failures that affect normal operation, together with the predicted frequency of occurrence of these faults or failures. The intended aircraft application must be taken into account to assure the assessment of the engine system safety is valid.

Issued in Kansas City, Missouri, on March 1, 2024.

**Patrick R. Mullen,**

*Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2024-0454; Project Identifier MCAI-2023-00923-T]

**RIN 2120-AA64**

**Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. This proposed AD was prompted by a report of multiple in-service failures of engine feed check valves, which have resulted in fuel imbalance conditions in flight. This proposed AD would require repetitive replacement of the left- and right-side engine feed check valves with new engine feed check valves, as specified in a Transport Canada AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by April 22, 2024.

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

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

- *Fax:* 202-493-2251.

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

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

*AD Docket:* You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0454; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

*Material Incorporated by Reference:*

- For material that is proposed for IBR in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email *TC.AirworthinessDirectives-Consignesde navigabilite.TC@tc.gc.ca*. You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation*. It is also available at *regulations.gov* under Docket No. FAA-2024-0454.

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

**FOR FURTHER INFORMATION CONTACT:**

Joseph Catanzaro, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7366; email *9-avs-nyaco-cos@faa.gov*.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2024-0454; Project Identifier MCAI-2023-00923-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated

as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Joseph Catanzaro, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7366; email *9-avs-nyaco-cos@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF-2023-59, dated July 26, 2023 (Transport Canada AD CF-2023-59) (also referred to as the MCAI), to correct an unsafe condition for all Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes. The MCAI states that there have been multiple in-service failures of engine feed check valves, which have resulted in fuel imbalance conditions in flight. An investigation found that the engine feed check valve is subject to abnormal wear out failures due to a severe operating environment in the engine fuel feed line. In the event of a failure of the check valve, flapper valve assembly items can become dislodged and contaminate the fuel system, potentially resulting in severe fuel imbalance or loss of fuel flow to the engine.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA-2024-0454.

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

The FAA reviewed Transport Canada AD CF-2023-59, which specifies procedures for repetitive replacement of the left- and right-side engine feed check valves with new engine feed check valves. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

**FAA's Determination**

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

**Proposed AD Requirements in This NPRM**

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF-2023-59 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF-2023-59 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF-2023-59 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information required by Transport Canada AD CF-2023-59 for compliance will be available at *regulations.gov* under Docket No. FAA-2024-0454 after the FAA final rule is published.

**Interim Action**

The FAA considers that this proposed AD would be an interim action. If final action is identified, the FAA might consider further rulemaking then.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 80 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

## ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost   | Parts cost                          | Cost per product                    | Cost on U.S. operators           |
|--|-------------------------------------|-------------------------------------|----------------------------------|
| 9 work-hours × \$85 per hour =<br>\$765 per replacement cycle. | \$2,830 per replacement cycle ..... | \$3,595 per replacement cycle ..... | \$287,600 per replacement cycle. |

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

#### Authority for This Rulemaking

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

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

#### Regulatory Findings

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

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

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

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

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

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

##### § 39.13 [Amended]

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

**Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.):** Docket No. FAA–2024–0454; Project Identifier MCAI–2023–00923–T.

##### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 22, 2024.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to all Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category.

##### (d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

##### (e) Unsafe Condition

This AD was prompted by a report of multiple in-service failures of engine feed check valves, which have resulted in fuel imbalance conditions in flight. The FAA is issuing this AD to address failure of the check valve. The unsafe condition, if not addressed, could result in severe fuel imbalance or loss of fuel flow to the engine.

##### (f) Compliance

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

##### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2023–59, dated July 26, 2023 (Transport Canada AD CF–2023–59).

##### (h) Exceptions to Transport Canada AD CF–2023–59

(1) Where Transport Canada AD CF–2023–59 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2023–59 specifies "hours air time," this AD requires replacing those words with "flight hours."

##### (i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to the nearest location where the airplane can be modified, provided that only crew are onboard.

##### (j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

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

##### (k) Additional Information

For more information about this AD, contact Joseph Catanzaro, Aviation Safety

Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7366; email [9-avs-nyacc-cos@faa.gov](mailto:9-avs-nyacc-cos@faa.gov).

#### (I) 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 this AD specifies otherwise.

(i) Transport Canada AD CF-2023-59, dated July 26, 2023.

(ii) [Reserved]

(3) For Transport Canada AD CF-2023-59, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email [TC.AirworthinessDirectives-Consignesde navigabilite.TC@tc.gc.ca](mailto:TC.AirworthinessDirectives-Consignesde navigabilite.TC@tc.gc.ca). You may find this Transport Canada AD on the Transport Canada website at [tc.canada.ca/en/aviation](https://tc.canada.ca/en/aviation).

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

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

Issued on February 27, 2024.

**Victor Wicklund,**

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

[FR Doc. 2024-04569 Filed 3-6-24; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2024-0455; Project Identifier MCAI-2023-00997-T]

RIN 2120-AA64

#### Airworthiness Directives; Embraer S.A. Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Embraer S.A. Model EMB-545 and EMB-550 airplanes. This proposed AD was prompted by occurrences of premature cracks in the outer layer of certain flight deck side windows caused by interference due to manufacturing tolerances. This proposed AD would require initial and repetitive inspections

of the flight deck side windows and applicable corrective actions, and would prohibit the installation of affected flight deck side windows, as specified in an Agência Nacional de Aviação Civil (ANAC) AD. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by April 22, 2024.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

**AD Docket:** You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0455; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

#### Material Incorporated by Reference:

• For material that is proposed for IBR in this AD, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email [pac@anac.gov.br](mailto:pac@anac.gov.br); website [anac.gov.br/en/](https://anac.gov.br/en/). You may find this material on the ANAC website at [sistemas.anac.gov.br/certificacao/DA/DAE.asp](https://sistemas.anac.gov.br/certificacao/DA/DAE.asp). It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0455.

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

#### FOR FURTHER INFORMATION CONTACT:

Hassan Ibrahim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206-231-3653; email: [hassan.m.ibrahim@faa.gov](mailto:hassan.m.ibrahim@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2024-0455; Project Identifier MCAI-2023-00997-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

#### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hassan Ibrahim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206-231-3653; email: [hassan.m.ibrahim@faa.gov](mailto:hassan.m.ibrahim@faa.gov). Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

#### Background

ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2023-08-03R01, effective November 2, 2023 (ANAC AD 2023-08-03R01) (also referred to as the MCAI), to correct an unsafe condition for Embraer S.A. Model EMB-550 and EMB-545 airplanes. The MCAI states premature

cracks have occurred in the outer layer of left-hand and right-hand flight deck side windows with part number (P/N) NP-200402-7 or P/N NP-200402-8, caused by interference due to manufacturing tolerances.

The FAA is proposing this AD to address cracks, delamination, and any other damage with the affected left-hand and right-hand flight deck side windows. The unsafe condition, if not addressed, may subject the inner layer of the window to unpredicted loads for several flights, which could result in window failure and subsequent in-flight depressurization events.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0455.

Related Service Information Under 1 CFR Part 51

ANAC AD 2023-08-03R01 specifies procedures for initial and repetitive general visual inspections of the left-hand and right-hand flight deck side windows to detect cracks, delamination, and any other damage (such as scratches, chipping, erosion, and crazing). ANAC AD 2023-08-03R01 specifies replacing any cracked window with a new window P/N NP-200402-9 or P/N NP-200402-10, as applicable. ANAC AD 2023-08-03R01 also

prohibits the installation of flight deck side windows with P/N NP-200402-7 or P/N NP-200402-8, on any airplane.

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in ANAC AD 2023-08-03R01 described previously, except as specified under "Difference Between this Proposed AD and the Service Information," and except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate ANAC AD 2023-08-03R01 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with ANAC AD 2023-08-03R01 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information required by ANAC AD 2023-08-03R01 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0455 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 44 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost                               | Parts cost | Cost per product | Cost on U.S. operators |
|--|------------|------------------|------------------------|
| 1 work-hour × \$85 per hour = \$85 ..... | \$0        | \$85             | \$3,740                |

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

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

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost                                     | Parts cost | Cost per window |
|--|------------|-----------------|
| 15 work-hours × \$85 per hour = \$1,2750 ..... | \$21,636   | \$22,911        |

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

Aviation Programs, describes in more detail the scope of the Agency's authority.

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

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

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

#### The Proposed Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Embraer S.A.:** Docket No. FAA–2024–0455; Project Identifier MCAI–2023–00997–T.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 22, 2024.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Embraer S.A. Model EMB–550 and EMB–545 airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) AD 2023–08–03R01, effective November 2, 2023 (ANAC AD 2023–08–03R01).

#### (d) Subject

Air Transport Association (ATA) of America Code 56, Windows.

#### (e) Unsafe Condition

This AD was prompted by occurrences of premature cracks in the outer layer of certain flight deck side windows caused by interference due to manufacturing tolerances. The FAA is issuing this AD to address cracks, delamination, and any other damage of the flight deck side windows. The unsafe condition, if not addressed, may subject the inner layer of the window to unpredicted loads for several flights, which could result in window failure and subsequent in-flight depressurization events.

#### (f) Compliance

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

#### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2023–08–03R01.

#### (h) Exceptions to ANAC AD 2023–08–03R01

(1) Where ANAC AD 2023–08–03R01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (b)(1)(i) of ANAC AD 2023–08–03R01 says “In case of any crack in the outer layer is detected, before the next flight, replace the damaged window,” for this AD, replace that wording with “If any crack, delamination, or any other damage is found, before the next flight, replace the affected window.”

(3) Where paragraph (b)(2) of ANAC AD 2023–08–03R01 says “at each 2,000 FC,” for this AD, replace that wording with “at intervals not to exceed 2,000 FC.”

(4) This AD does not adopt paragraph (d) of ANAC AD 2023–08–03R01.

#### (i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

#### (j) Additional Information

For more information about this AD, contact Hassan Ibrahim, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3653; email: [hassan.m.ibrahim@faa.gov](mailto:hassan.m.ibrahim@faa.gov).

#### (k) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2023–08–03R01, effective November 2, 2023.

(ii) [Reserved].

(3) For ANAC AD 2023–08–03R01, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email [pac@anac.gov.br](mailto:pac@anac.gov.br); website [anac.gov.br/en/](http://anac.gov.br/en/). You may find this ANAC AD on the ANAC website at [sistemas.anac.gov.br/certificacao/DA/DAE.asp](http://sistemas.anac.gov.br/certificacao/DA/DAE.asp).

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

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

Issued on February 27, 2024.

**Victor Wicklund,**

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

[FR Doc. 2024–04570 Filed 3–6–24; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

**RIN 2900–AR58**

### Loan Guaranty: Revisions to VA-Guaranteed or Insured Interest Rate Reduction Refinancing Loans

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Supplemental Notice of Proposed Rulemaking.

**SUMMARY:** On November 1, 2022, the Department of Veterans Affairs (VA) published a proposed rulemaking to amend its regulations on VA-backed interest rate reduction refinancing loans (IRRRLs). This supplemental notice of proposed rulemaking (SNPRM) proposes a change to the recoupment standard published in the proposed rule and seeks public comments on that change.

**DATES:** Comments must be received on or before May 6, 2024.

**ADDRESSES:** Comments must be submitted through [www.regulations.gov](http://www.regulations.gov). Except as provided below, comments received before the close of the comment period will be available at [www.regulations.gov](http://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 [www.regulations.gov](http://www.regulations.gov) as soon as possible after they have been received. VA will not post on [Regulations.gov](http://Regulations.gov) public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. VA encourages individuals not to submit duplicative comments; however, we will post 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. In accordance with the Providing Accountability Through Transparency Act of 2023, a 100 word Plain-Language Summary of this supplemental notice of proposed rulemaking (SNPRM) is available at [Regulations.gov](http://Regulations.gov), under RIN 2900-AR58.

**FOR FURTHER INFORMATION CONTACT:**

Stephanie Li, Assistant Director, Regulations, Legislation, Engagement, and Training, and Terry Rouch, Assistant Director, Loan Policy and Valuation, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632-8862 (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** On November 1, 2022, VA published a proposal to amend VA's existing IRRRL regulation at 38 CFR 36.4307 to reflect current statutory requirements set forth by section 309 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115-174, 132 Stat. 1296, and section 2 of the Protecting Affordable Mortgages for Veterans Act of 2019, Public Law 116-33, 133 Stat. 1038. See Loan Guaranty: Revisions to VA-Guaranteed or Insured Interest Rate Reduction Refinancing Loans, 87 FR 65700 (Nov. 1, 2022). That rulemaking notice proposed that the lender of an IRRRL must provide the Secretary with a certification that the Veteran would recoup all fees, closing costs, and expenses (other than taxes, amounts held in escrow, and fees paid under 38 U.S.C. chapter 37) on or before the date that is 36 months after the IRRRL's note date. VA has determined that the due date of the first payment on the IRRRL, rather than the note date, would further more practical implementation of the statutory text

than the initial proposal and that it would better fit with the expectations of key stakeholders, including Veterans, Congress, and the loan industry.

With this SNPRM, VA seeks to clarify the effect of the recoupment standard and address important considerations and reasons for VA's proposed changes. To accomplish this, VA is proposing additional edits to 38 CFR 36.4307, as explained in more detail below. VA will address all of the comments received on the proposed rule and any comments VA receives on this SNPRM in our final rulemaking.

**Background on VA's Proposed Rule**

Section 3709(a), title 38, United States Code, requires that the issuer of an IRRRL certify to the Secretary as to the recoupment period for certain fees, closing costs, and expenses. See 38 U.S.C. 3709(a). The term "issuer" is not a term used in VA's program elsewhere, but VA has interpreted it to mean a lender. The statute also provides a broad methodology for calculating the recoupment period. For a loan to meet the statutory recoupment requirements, the certification must show that all fees and incurred costs are (i) scheduled to be recouped on or before the date that is 36 months after the date of loan issuance; and (ii) the recoupment is calculated through lower regular monthly payments (minus certain enumerated items) as a result of the refinanced loan.

Several statutory provisions introduced a number of new terms and ambiguous phrasings. As VA has pointed out in both its interim final cash-out refinance rule and proposed IRRRL rule notices, the text of section 3709 can reasonably lead to multiple interpretations. See Loan Guaranty: Revisions to VA-Guaranteed or Insured Cash-Out Home Refinance Loans, 83 FR 64459, 64460-64461 (Dec. 17, 2018); 87 FR 65700, 65701-65706 (Nov. 1, 2022). VA also pointed out in both notices that VA would attempt to situate the provisions within the coherent and consistent framework of the newly enacted statute, as well as the whole of chapter 37, title 38, U.S.C. See 83 FR at 64461-64462; 87 FR at 65702, 65707.

Before 38 U.S.C. 3709 was signed into law, the term "loan issuance" was not mentioned within chapter 37 or commonly used by VA in the VA home loan program. The legislative history of Public Law 115-174 does not include a definition of the term or provide sufficient context from which to infer the intended meaning.

The term could derive from the Government National Mortgage Association (Ginnie Mae) mortgage-

backed securities (MBS) program. The Ginnie Mae MBS program is the primary source of liquidity for lenders that participate in VA's program. An eligible issuer "creates pools of mortgages, loan packages of mortgages," and is responsible for servicing the pooled mortgages until maturity or termination. See *Ginnie Mae MBS Guide*, Chap. 1, Part 10, available at [https://www.ginniemae.gov/issuers/program\\_guidelines/MBSGuideLib/Chapter\\_01.pdf](https://www.ginniemae.gov/issuers/program_guidelines/MBSGuideLib/Chapter_01.pdf). Although the Ginnie Mae MBS program can include mortgages purchased from multiple originators and serviced by third parties, Ginnie Mae looks only to the eligible issuer of the MBS to ensure that the servicing meets Ginnie Mae's standards. See *Ginnie Mae: How Does it Work and What Does it Do?*, Bipartisan Policy Center, available at <https://bipartisanpolicy.org/download/?file=/wp-content/uploads/sites/default/files/GinnieMae-final.pdf#:~:text=The Government National Mortgage Association%28or Ginnie Mae%29>.

In the proposed rule notice, VA settled on proposing the note date as "the date of loan issuance," which means that if VA were to adopt the standard as proposed, the note date would serve as the point at which the calculation of the 36-month recoupment period would begin. See 87 FR at 65701. Although VA did not explain the rationale in-depth, VA's proposal was consistent with the terms "to issue" and "date of issue/issue date," as used in other related contexts (e.g., the Ginnie Mae MBS Guide, insurance policies, bonds, and a regulatory definition relating to the Thrift Savings Plan).<sup>1</sup> VA also believed the note date would be a date all stakeholders could easily track.

**Reconsidering the "Date of Loan Issuance"**

VA did not receive public comments specific to what "date of loan issuance" means. In preparation for the final rule, however, VA re-examined the text of section 3709, VA's proposed recoupment formula, comments of internal VA staff, potential outcomes for Veterans, ongoing industry implementation of the statutory recoupment standard, and a range of other sources,<sup>2</sup> and identified reasons why the initial proposal may not have reflected the best interpretation.

<sup>1</sup> See, e.g., *Ginnie Mae MBS Guide*, Chap. 1, Part 9, available at [https://www.ginniemae.gov/issuers/program\\_guidelines/MBSGuideLib/Chapter\\_01.pdf](https://www.ginniemae.gov/issuers/program_guidelines/MBSGuideLib/Chapter_01.pdf); 5 CFR 1655.1 (defining "Loan issue date" as "the date on which the TSP record keeper disburses funds from the participant's account for the loan amount").

<sup>2</sup> VA conducted a broad sweep of electronic search engines and databases using the term "issuance date" and "date of issuance".



Because VA now sees that “date of loan issuance” is subject to various reasonable interpretations, VA believes that it is prudent to reopen the public comment period for this specific issue. This will allow all stakeholders to provide input on whether the first payment due date better reflects the coherent and consistent statutory scheme and provides a more workable standard for Veterans, VA, and the loan industry.

Section 3709 provides that “recoupment is calculated through lower regular monthly payments.” See 38 U.S.C. 3709(a)(3). VA’s proposed formula reflected this, in that it presented a comparison between that which the Veteran would pay for principal and interest under the loan being refinanced and that which the Veteran would pay for principal and interest under the IRRRL. See 87 FR at 65701.

Using the IRRRL’s note date, however, may not give full meaning to Congress’s emphasis on the way “costs are scheduled to be recouped . . . through lower regular monthly payments.” See 38 U.S.C. 3709(a). The loan closing and servicing processes generally result in a borrower missing one or two of the payments that would normally have been made under the loan being refinanced. Generally, the borrower must pay for the principal and interest corresponding to the missed loan payments up-front during the IRRRL closing or include the amounts in the balance of the IRRRL. If VA were to use the note date as the start of the recoupment period, there could consistently be one or two months where VA could not make a direct comparison of monthly payments to determine the borrower’s costs and savings.

The missed payments highlight two outcomes that could harm Veterans and contradict section 3709. First, a lender could try to count those one or two missed payments toward the IRRRL savings (Note: VA refers to “missed payments” here solely to mean they are not due and payable when they would have been scheduled as such under the loan being refinanced). For example, if a Veteran’s next two scheduled payments of \$2,000 would be \$0.00 under the IRRRL, the lender could try to assert the \$4,000 as a complete savings, thereby reducing the recoupment period. Two scenarios where this could harm the Veteran are: (i) the missed payments would go toward recoupment even though the Veteran would be responsible for the amounts (at closing or in the loan balance), and (ii) a predatory lender could profit by exploiting “the savings” and justifying new, unnecessary charges to the Veteran.

Second, if VA were to exclude from the recoupment period the two months when payments were not due, the Veteran would be limited to 34 monthly payments to meet the recoupment, rather than the full 36, to offset the IRRRL’s transaction costs. See 38 U.S.C. 3709(a)(2) (“all of the fees and incurred costs . . . [must be] scheduled to be recouped on or before the date that is 36 months after the date of loan issuance”). Because VA must adhere to the 36-month statutory requirement, VA is concerned a de facto 34-month requirement would not meet the statute’s terms.

In addition, it is VA’s understanding that the concerns that led to the enactment of section 3709—whether concerns of VA or those of consumer advocates—were not necessarily about missed payments in and of themselves.

Few Veterans would argue that being able to retain one or two months of mortgage payments is intrinsically predatory or more costly. The main concern was the way certain lenders marketed the missed payments, misleading Veterans to believe as if they were no longer responsible for those payments. However, the Veteran was still responsible for paying them, albeit in different ways, as discussed above.

Because the payment structure could reduce the recoupment period from 36 months to 34, VA must confront another potential area for concern. If the recoupment period is conditioned upon making up the missed payments, VA seemingly characterizes the missed payments as a new charge to the Veteran, something the Veteran would not have been responsible for paying had the loan not been refinanced. In short, it could be asserted that VA’s decision about the note date is tantamount to VA defining a missed payment as a “fee, closing cost, or expense,” that must be recouped. See 38 U.S.C. 3709(a)(1).

One way to address these issues would be to keep the note date as “the date of loan issuance” but substantively change or introduce a new, more complex formula that accounts for the missed payments. But VA is concerned that adding complexity and substantive change to the proposed calculation would make the refinance process frustrating to Veterans and lenders alike, as well as lead to unnecessary errors in origination and oversight. Thus, VA believes the best approach is to keep the straightforward formula, as proposed in the November 2022 notice, and simply change the start date of the recoupment period, as described above. See 87 FR at 65701. The formula would continue to appear as follows:

$$\frac{(\text{fees} + \text{closing costs} + \text{expenses}) - \text{lender credits}}{\text{reduction in monthly payment of principal and interest}} = \text{months to recoup costs}$$

To sum up the options VA considered with respect to the recoupment standard, VA could—

1. Finalize the rule using the note date as “the date of loan issuance,” which could be seen as tantamount to defining missed payments as “a fee, closing cost, or expense,” that must be recouped;
2. Propose a different definition of “the date of loan issuance,” where such date is the date that the first payment under the IRRRL is due; or

3. Propose a new formula to account for the missed payments in a meaningful, accurate way, regardless of additional complexity, potential for error, and potential for stakeholder frustration.

VA does not believe a fourth option, one where a lender could count the missed payments as savings, would be consistent with the purpose of section 3709, which is to protect Veterans from predatory lending. See 87 FR at 65702.

#### Updated Revision to Proposed § 36.4307

Based on VA’s additional analysis (discussed above), VA now proposes an updated revision to the language of § 36.4307(a)(8). Specifically, VA proposes a different definition for “the date of loan issuance,” one that would be specific to IRRRLs and section 3709. VA proposes to begin the 36-month recoupment period on the date that is the first payment due date of the IRRRL.

In other words, VA proposes to interpret the date the Veteran is required to make the first regular payment under the IRRRL—regardless of whether the Veteran actually makes the payment—as “the date of loan issuance” set by section 3709(a)(2). To illustrate the difference between VA’s definition as described by the November 2022 notice and this updated proposal: if a Veteran signs a note on April 10, 2025, and the first payment due date of the IRRRL is June 1, 2025, the recoupment period

under VA’s proposed rule would begin April 10, 2025. Under this SNPRM, the recoupment period would begin June 1, 2025. VA believes that, for the reasons described above, this new approach would be consistent with the text and context of section 3709, result in more advantageous outcomes for Veterans, and be an easy standard for lenders to compute and follow.

With respect to the formula provided in the preamble of the proposed rule, VA is clarifying that provided the result

of the formula, *i.e.*, the months to recoup, is less than or equal to 36, the IRRRL would meet recoupment. VA would maintain the proposed rule’s formula, but clarify that when the result of the calculation, *i.e.*, the “months to recoup costs” in the figure above, is less than or equal to 36, the recoupment requirement for the IRRRL would be met. In other words, VA proposes that the statutory recoupment requirement would be met when:

$$\frac{(\text{fees} + \text{closing costs} + \text{expenses}) - \text{lender credits}}{\text{reduction in monthly payment of principal and interest}} \leq 36 \text{ months}$$

In revised proposed § 36.4307(a)(8)(i), VA would require that the lender of the refinancing loan provide the Secretary with a certification that all fees, closing costs, and expenses (other than taxes, amounts held in escrow, and fees paid under 38 U.S.C. chapter 37) that would be incurred by the Veteran as a result of the refinance are scheduled to be recouped on or before the date that is 36 months after the date that is the first payment due date of the refinancing loan.

To reiterate, VA is seeking comments on this issue only. VA will not review new comments on any another aspect of the proposed rulemaking.

#### **Executive Orders 12866, 13563 and 14094**

Executive Order 12866 (Regulatory Planning and Review) directs 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. Executive Order 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of

Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### **Regulatory Flexibility Act**

VA believes that the discrete change in recoupment start date contained in this SNPRM would not affect the way lenders have, in practice, calculated recoupment of applicable fees, closing costs, and expenses over 36 monthly payments. On this basis, the Secretary hereby certifies that this SNPRM 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). 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.

#### **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, and 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 would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Paperwork Reduction Act**

This SNPRM contains no provisions constituting a collection of information

under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### **List of Subjects in 38 CFR Part 36**

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

#### **Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, signed and approved this document on March 1, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

#### **Michael P. Shores,**

*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 proposes to amend 38 CFR part 36 as set forth below:

### **PART 36—LOAN GUARANTY**

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and 3720.

■ 2. Amend § 36.4307 by:

■ a. In paragraph (a)(4)(ii), removing the cross-reference to “§ 36.4339(a)(4)” and adding, in its place, the cross-reference “§ 36.4339(b)”;

■ b. In paragraphs (a)(4), (5), (6), and (7), adding paragraph headings;

■ c. Adding new paragraphs (a)(8), (9), (10), and (11); and

■ d. Revising the authority citation at the end of the section.

The revisions and additions read as follows:

**36.4307 Interest rate reduction refinancing loan.**

- (a) \* \* \*
- \* \* \* \* \*
- (4) *Maximum amount of refinancing loan.* \* \* \*
- (5) *Cases of delinquency.* \* \* \*
- (6) *Guaranty amount.* \* \* \*
- (7) *Loan term.* \* \* \*
- (8) *Recoupment.* (i) The lender of the refinancing loan must provide the Secretary with a certification that all fees, closing costs, and expenses (other than taxes, amounts held in escrow, and fees paid under 38 U.S.C. chapter 37) that would be incurred by the veteran as a result of the refinance are scheduled to be recouped on or before the date that is 36 months after the date that is the first payment due date of the refinancing loan.
- (ii) The recoupment period is calculated by dividing the dollar amount equating to the sum of all fees, closing costs, and expenses, whether included in the loan or paid at or outside of closing, minus lender credits (the numerator), by the dollar amount by which the veteran's monthly payment for principal and interest is reduced as a result of the refinance (the denominator).
- (iii) *Numerator.* The numerator described by paragraph (a)(8)(ii) of this section is the dollar amount equating to the sum of all fees, closing costs, and expenses that would be incurred by the veteran as a result of the refinance. Except as provided in this paragraph (a)(8)(iii), such sum includes any charge that is incurred by the veteran as a result of the refinance, including taxes that are not described in paragraph (a)(8)(iii)(C) of this section. Lender credits may be subtracted from other amounts in the numerator. The following items do not constitute fees, closing costs, or expenses for the purposes of this paragraph (a)(8)(iii) and are excluded from the numerator:
- (A) The loan fee as prescribed by 38 U.S.C. 3729;
- (B) Prepaid interest and amounts held in escrow (for example, amounts for hazard insurance); and
- (C) Taxes and assessments on the property, even when paid outside of their normal schedule, that are not incurred solely due to the refinance transaction (for example, property taxes and special assessments).
- (iv) *Denominator.* The denominator described by paragraph (a)(8)(ii) of this section is the dollar amount by which the veteran's monthly payment for principal and interest is reduced as a

result of the refinance. The reduction is calculated by subtracting the veteran's monthly payment for principal and interest under the refinancing loan from the veteran's monthly payment for principal and interest under the loan being refinanced. When calculating monthly payments for principal and interest, the lender must use the full payment, without omitting any amounts to be repaid monthly by the veteran and attributable to, for example, financed fees, financed loan fees prescribed by 38 U.S.C. 3729, financed closing costs, and financed expenses.

(v) If the dollar amount of the veteran's monthly payment for principal and interest under the refinancing loan is equal to or greater than the dollar amount of the veteran's monthly payment for principal and interest under the loan being refinanced, meaning there is no reduction in the monthly payment for principal and interest as a result of the refinancing loan, the lender must not charge any fees, closing costs, or expenses, except for those enumerated by paragraphs (a)(8)(iii)(A), (B), and (C) of this section.

(9) *Loan seasoning.* (i) The refinancing loan must meet both of the following requirements:

(A) On or before the note date of the refinancing loan, the veteran must have made at least six consecutive monthly payments on the loan being refinanced. For the purposes of this paragraph (a)(9), "monthly payment" means the full monthly dollar amount owed under the note plus any additional monthly amounts agreed to between the veteran and the holder of the loan being refinanced, such as payments for taxes, hazard insurance, fees and charges related to late payments, and amounts owed as part of a repayment plan. A monthly payment will count toward the requisite six consecutive monthly payments only if made in or before the same calendar month for which it is due. A prepaid monthly payment will count toward the requisite six consecutive monthly payments, provided that the holder of the loan being refinanced applies such payment as satisfying the veteran's obligation of payment for a specific month, advances the due date of the veteran's next monthly payment, and does not apply the payment solely toward principal. When multiple partial payments sum to the amount owed for one monthly payment, they will count as a single monthly payment toward the requisite six consecutive monthly payments, but only if all partial payments are made in or before the same calendar month for which full payment is due.

(B) The note date of the refinancing loan must be a date that is not less than 210 days after the first payment due date of the loan being refinanced, regardless of whether the loan being refinanced became delinquent. The first payment due date of the loan being refinanced is not included in the 210-day count. The note date of the refinancing loan is included in the 210-day count.

(ii) *Loan modifications.* If the loan being refinanced has been modified, any payment made before the modification date does not count toward the requisite six consecutive monthly payments under paragraph (a)(9)(i)(A) of this section. The note date of the refinancing loan must be a date that is not less than 210 days after the first payment due date of the modified loan. The first payment due date of the modified loan is not included in the 210-day count. The note date of the refinancing loan is included in the 210-day count.

(iii) *Assumptions.* If the loan being refinanced was assumed pursuant to 38 U.S.C. 3714, any payment made before the assumption date does not count toward the requisite six consecutive monthly payments under paragraph (a)(9)(i)(A) of this section. The note date of the refinancing loan must be a date that is not less than 210 days after the first payment due date of the assumed loan. The first payment due date of the assumed loan is not included in the 210-day count. The note date of the refinancing loan is included in the 210-day count.

(10) *Interest rate.* (i) In a case in which the loan being refinanced has a fixed interest rate and the refinancing loan will also have a fixed interest rate, the interest rate on the refinancing loan must not be less than 50 basis points less than the interest rate on the loan being refinanced.

(ii) In a case in which the loan being refinanced has a fixed interest rate and the refinancing loan will have an adjustable rate, the interest rate on the refinancing loan must not be less than 200 basis points less than the interest rate on the loan being refinanced. In addition, discount points may be included in the loan amount only if—

(A) The lower interest rate is not produced solely from discount points;

(B) The lower interest rate is produced solely from discount points, discount points equal to or less than one discount point are added to the loan amount, and the resulting loan balance (inclusive of all fees, closing costs, and expenses that have been financed) maintains a loan to value ratio of 100 percent or less; or

(C) The lower interest rate is produced solely from discount points, more than one discount point is added to the loan amount, and the resulting loan balance (inclusive of all fees, closing costs, and expenses that have been financed) maintains a loan to value ratio of 90 percent or less.

(iii) Pursuant to paragraph (a)(4)(i) of this section, no more than two discount points may be added to the loan amount.

(iv) In cases where the lower interest rate is not produced solely from discount points, as described by paragraph (a)(10)(ii)(A) of this section, lenders must provide to the Secretary evidence that the lower interest rate is not produced solely from discount points.

(v) Lenders must use a property valuation from an appraisal report, completed no earlier than 180 days before the note date, as the dollar amount for the value in the loan to value ratio described by paragraph (a)(10)(ii) of this section. The appraisal report must be completed by a licensed appraiser and the appraiser's license must be active at the time the appraisal report is completed. A veteran may only be charged for one such appraisal report. A veteran may only be charged for such appraisal report as part of the flat charge not exceeding 1 percent of the amount of the loan, as described by § 36.4313(d)(2). While a lender may use a VA-designated fee appraiser to complete the appraisal report, lenders should not request an appraisal through VA systems unless directed by the Secretary.

(11) *Net tangible benefit.* The refinancing loan must provide a net tangible benefit to the veteran. For the purposes of this section, net tangible benefit means that the refinancing loan is in the financial interest of the veteran. The lender of the refinancing loan must provide the veteran with a net tangible benefit test. The net tangible benefit test must be satisfied. The net tangible benefit test is defined as follows:

(i) The refinancing loan must meet the requirements prescribed by paragraphs (a)(8), (9), and (10) of this section.

(ii) The lender must provide the veteran with an initial loan comparison disclosure and a final loan comparison disclosure of the following:

(A) The loan payoff amount of the refinancing loan, with a comparison to the loan payoff amount of the loan being refinanced;

(B) The type of the refinancing loan, whether a fixed-rate loan, traditional adjustable-rate loan, or hybrid adjustable-rate loan, with a comparison to the type of the loan being refinanced;

(C) The interest rate of the refinancing loan, with a comparison to the current interest rate of the loan being refinanced;

(D) The term of the refinancing loan, with a comparison to the term remaining on the loan being refinanced; and

(E) The dollar amount of the veteran's monthly payment for principal and interest under the refinancing loan, with a comparison to the current dollar amount of the veteran's monthly payment for principal and interest under the loan being refinanced.

(iii) The lender must provide the veteran with an initial loan comparison disclosure (in a format specified by the Secretary) on the date the lender provides the Loan Estimate, required under 12 CFR 1026.19(e), to the veteran. If the lender is required to provide to the veteran a revised Loan Estimate under 12 CFR 1026.19(e) that includes any of the revisions described by paragraph (a)(11)(iv) of this section, the lender must provide to the veteran, on the same date the revised Loan Estimate must be provided, an updated loan comparison disclosure.

(iv) The revisions described by this paragraph (a)(11)(iv) are:

(A) A revision to any loan attribute that must be compared pursuant to paragraph (a)(11)(ii) of this section;

(B) A revision that affects the recoupment under paragraph (a)(8) of this section; and

(C) Any other revision that is a numeric, non-clerical change.

(v) The lender must provide the veteran with a final loan comparison disclosure (in a format specified by the Secretary) on the date the lender provides to the veteran the Closing Disclosure required under 12 CFR 1026.19(f). The veteran must certify, following receipt of the final loan comparison disclosure, that the veteran received the initial and final loan comparison disclosures required by this paragraph.

(vi) Regardless of whether the lender must provide the veteran with a Loan Estimate under 12 CFR 1026.19(e) or a Closing Disclosure under 12 CFR 1026.19(f), the lender must provide the veteran with the initial and final loan comparison disclosures. Where the lender is not required to provide the veteran with a Loan Estimate or a Closing Disclosure because the refinancing loan is an exempt transaction under 12 CFR 1026.3, the lender must provide the veteran with the initial and final loan comparison disclosures on the dates the lender would have been required to provide the veteran with the Loan Estimate

under 12 CFR 1026.19(e) and the Closing Disclosure under 12 CFR 1026.19(f), respectively, as if the refinancing loan was not an exempt transaction.

\* \* \* \* \*

(Authority: 38 U.S.C. 3703, 3709, and 3710)

### ■ 3. Amend § 36.4313 by:

■ a. Revising paragraph (d)(1)(i); and

■ b. In paragraph (e)(1)(i), removing the word “and” and adding, in its place, the word “or”.

The revisions read as follows:

### 36.4313 Charges and fees.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(i) Fees of Department of Veterans Affairs appraiser and of compliance inspectors designated by the Department of Veterans Affairs except the following:

(A) Appraisal fees incurred for the predetermination of reasonable value requested by others than veteran or lender; and

(B) Appraisal fees incurred for the purpose specified by § 36.4307(a)(10)(v) of this subpart.

\* \* \* \* \*

[FR Doc. 2024–04884 Filed 3–6–24; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2023–0338; FRL–11798–01–R4]

### Air Plan Approval; KY; Revisions to Jefferson County Definitions

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted on May 31, 2023, by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ) on behalf of the Louisville Metro Pollution Control District (Jefferson County or District). The purpose of the revision is to modify the SIP-approved version of the District's definitions rule to include a list of “trivial activities” in a new appendix; update the incorporation by reference date of the Federal air quality regulation that excludes certain organic compounds from the definition of “volatile organic compounds (VOC);” and make minor grammatical changes.

EPA is proposing to approve the changes pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before April 8, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2023–0338 at [regulations.gov](https://www.regulations.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Simone Jarvis, 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) 562–8393. Ms. Jarvis can also be reached via electronic mail at [jarvis.simone@epa.gov](mailto:jarvis.simone@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background

On May 31, 2023, KDAQ, on behalf of the District, submitted changes to the Jefferson County portion of the Kentucky SIP for EPA approval.<sup>1</sup> In this proposed rulemaking, EPA is proposing to approve changes to Jefferson County Regulation 1.02, *Definitions*.<sup>2</sup>

<sup>1</sup> The May 31, 2023, submittal also contains changes to Jefferson County Regulation 1.11, *Control of Open Burning*, in the Jefferson County portion of the Kentucky SIP. EPA intends to address these changes in a separate rulemaking.

<sup>2</sup> In 2003, the City of Louisville and Jefferson County governments merged, and the “Jefferson County Air Pollution Control District” was renamed the “Louisville Metro Air Pollution Control District.” However, to be consistent with the terminology used in the subheading in Table 2 of 40 CFR 52.920(c), throughout this notice we refer to the District regulations contained in the Jefferson

### II. EPA’s Analysis of Kentucky’s SIP Revision

The May 31, 2023, SIP revision contains a version of Regulation 1.02, *Definitions*, that was adopted by the District on March 15, 2023 (referred to as “Version 16” by the District). The District requests that EPA incorporate Version 16 into the SIP and identifies changes in Regulation 1.02 between Version 16 and Version 15, which is the version of the rule currently in the SIP.

The District’s first proposed change is the addition of Appendix B to Section 1, which lists “trivial activities,” and the modification to the definition of “trivial activities” at subsection 1.80 to reference Appendix B.<sup>3</sup> The SIP-approved definition of “trivial activities” states that the District will maintain a list of trivial activities that shall be made available to the public upon request. This list has not changed since it was created in 1995 in response to the EPA White Paper for Streamlined Development of Part 70 Permit Applications.<sup>4</sup> This change would only incorporate the list into the SIP and would not alter the activities listed therein.

The District’s second proposed change is to the definition of “volatile organic compound” at subsection 1.84. Subsection 1.84.1 incorporates by reference 40 CFR 51.100(s)(1) which lists compounds excluded from the Federal definition of “volatile organic compounds (VOC)” at 40 CFR 51.100(s). The change updates the incorporation by reference date from July 1, 2018, to July 1, 2022, which has the effect of adding an organic compound, cis-1,1,1,4,4,4-hexafluorobut-2-ene (also known as HFO–1336mzz–Z), to the list of compounds excluded from the definition of VOC. EPA exempted this compound from the Federal definition of “volatile organic compounds (VOC)” because its contribution to the formation of tropospheric ozone is negligible. See 83 FR 61127 (November 28, 2018).

The District’s third proposed change is a set of minor grammatical changes. For example, the Section 1 preamble is changed from “in the District’s regulations” to “in District regulations.” Given the nature of this change and the

County portion of the Kentucky SIP as the “Jefferson County” regulations.

<sup>3</sup> The revised version of subsection 1.80 reads “‘Trivial activities’ means any activity that is considered inconsequential, as determined by the District, and included in Appendix B to this Regulation.”

<sup>4</sup> Attachment A to the EPA White Paper contains a list of activities that may be treated as trivial. The White Paper is available at: <https://www.epa.gov/title-v-operating-permits/white-paper-streamlined-development-part-70-permit-applications>.

changes described above, the SIP revision will not interfere with any applicable requirement concerning attainment of the national ambient air quality standards, reasonable further progress, or any other applicable requirement of the CAA.<sup>5</sup> EPA is proposing to approve all changes to Regulation 1.02 except for the grammatical edit to the term “acute noncancer effect,” because that term is not in the SIP.<sup>6</sup>

### III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section II of this preamble, EPA is proposing to incorporate by reference Jefferson County Regulation 1.02, *Definitions* (except for the definition of “Acute noncancer effect”), Version 16, District-effective on March 15, 2023, which updates exclusions to the definition of “volatile organic compound” and includes Appendix B which lists “trivial activities.” EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](https://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).

### IV. Proposed Action

EPA is proposing to approve the changes to Regulation 1.02, *Definitions* (except for the change to the definition of “Acute noncancer effect”), of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth on May 31, 2023, for the reasons discussed above. The SIP revision updates the current SIP-approved version of Regulation 1.02 (Version 15) to Version 16.

### V. Statutory and Executive Order Reviews

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

<sup>5</sup> See CAA section 110(l).

<sup>6</sup> See 81 FR 87815 (December 6, 2016), 82 FR 35101 (July 28, 2017).

State law. For that reason, this proposed action:

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

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629,

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

The District did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

**List of Subjects in 40 CFR Part 52**

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

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

Dated: March 1, 2024.

**Jeaneanne Gettle,**  
*Acting Regional Administrator, Region 4.*  
[FR Doc. 2024–04773 Filed 3–6–24; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[EPA–HQ–OLEM–2024–0066, 0067 and 0068; FRL–11724–01–OLEM]**

**National Priorities List**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Proposed rule.

**SUMMARY:** The Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” or “the Act”), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The National Priorities List (“NPL”) constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (“EPA” or “the agency”) in determining which sites warrant further investigation. These further investigations will allow the EPA to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. This rule proposes to add three sites to the General Superfund section of the NPL.

**DATES:** Comments regarding any of these proposed listings must be submitted (postmarked) on or before May 6, 2024.

**ADDRESSES:** Identify the appropriate docket number from the table below.

**DOCKET IDENTIFICATION NUMBERS BY SITE**

| Site name                  | City/county, state             | Docket ID No.          |
|----------------------------|--------------------------------|------------------------|
| Afterthought Mine .....    | Bella Vista, CA .....          | EPA–HQ–OLEM–2024–0066. |
| Gelman Sciences Inc .....  | Ann Arbor, MI .....            | EPA–HQ–OLEM–2024–0067. |
| Upper Columbia River ..... | Upper Columbia River, WA ..... | EPA–HQ–OLEM–2024–0068. |

You may send comments, identified by the appropriate docket number, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our

preferred method). Follow the online instructions for submitting comments.

- **Agency Website:** [https://www.epa.gov/superfund/current-npl-updates-new-proposed-npl-sites-and-](https://www.epa.gov/superfund/current-npl-updates-new-proposed-npl-sites-and-new-npl-sites)

[new-npl-sites](https://www.epa.gov/superfund/current-npl-updates-new-proposed-npl-sites-and-new-npl-sites); scroll down to the site for which you would like to submit comments and click the “Comment Now” link.

• *Mail*: U.S. Environmental Protection Agency, EPA Docket Center, Superfund Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand Delivery or Courier (by scheduled appointment only)*: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

*Instructions*: All submissions received must include the appropriate Docket ID No. for site(s) for which you are submitting comments. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Review/Public Comment” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT**: Terry Jeng, Site Assessment and Remedy Decisions Branch, Assessment and Remediation Division, Office of Superfund Remediation and Technology Innovation (Mail code 5204T), U.S. Environmental Protection Agency; 1301 Constitution Avenue NW, Washington, DC 20460, telephone number: (202) 566–1048, email address: [jeng.terry@epa.gov](mailto:jeng.terry@epa.gov).

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#### I. Public Review/Public Comment

*A. May I review the documents relevant to this proposed rule?*

Yes, documents that form the basis for the EPA's evaluation and scoring of the sites in this proposed rule are contained in public dockets located both at the EPA Headquarters in Washington, DC, and in the regional offices. An electronic version of the public docket is available through <https://www.regulations.gov> (see table above for docket identification numbers). Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facilities.

*B. What documents are available for public review at the EPA Headquarters docket?*

The Headquarters docket for this proposed rule contains the following information for the sites proposed in this rule: Hazard Ranking System (HRS) score sheets; documentation records describing the information used to compute the score; information for any sites affected by particular statutory requirements or the EPA listing policies; and a list of documents referenced in the documentation record. These documents are also available online at <https://www.regulations.gov>.

*C. What documents are available for public review at the EPA regional dockets?*

The regional dockets for this proposed rule contain all of the information in the Headquarters docket plus the actual reference documents containing the data principally relied upon and cited by the EPA in calculating or evaluating the HRS score for the sites. These reference documents are available only in the regional dockets.

*D. How do I access the documents?*

You may view the primary documents that support this proposed rule online at <https://www.regulations.gov> or by contacting the EPA HQ docket. You may view the primary documents plus the references by contacting the regional dockets. The hours of operation for the headquarters docket are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays. Please contact the individual regional dockets for hours. The contact information for the regional dockets is as follows:

- Holly Inglis, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA, Superfund Records and Information Center, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; (617) 918–1413.

- James Desir, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866; (212) 637–4342.

- Lorie Baker, Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA, 4 Penn Center, 1600 John F. Kennedy Boulevard, Mail code 3SD12, Philadelphia, PA 19103; (315) 814–3355.

- Sandra Bramble, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 61 Forsyth Street SW, Mail code 9T25, Atlanta, GA 30303; (404) 562–8926.

- Todd Quesada, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA Superfund Division Librarian/SFD Records Manager SRC–7J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604; (312) 886–4465.

- Michelle Delgado-Brown, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1201 Elm Street, Suite 500, Mail code SED, Dallas, TX 75270; (214) 665–3154.

- Kumud Pyakuryal, Region 7 (IA, KS, MO, NE), U.S. EPA, 11201 Renner Blvd., Mail code SUPSTAR, Lenexa, KS 66219; (913) 551–7956.

- David Fronczak, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 1595 Wynkoop Street, Mail code 8SEM–EM–P, Denver, CO 80202–1129; (303) 312–6096.

- Leslie Ramirez, Region 9 (AZ, CA, HI, NV, AS, GU, MP), U.S. EPA, 75 Hawthorne Street, Mail code SFD–6–1, San Francisco, CA 94105; (415) 972–3978.



• Brandon Perkins, Region 10 (AK, ID, OR, WA), U.S. EPA, 1200 Sixth Avenue, Mail code 13-J07, Seattle, WA 98101; (206) 553-6396.

You may also request copies from the EPA Headquarters or the regional dockets. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. Please note that due to the difficulty of reproducing them, oversized maps may be viewed only in-person. The EPA dockets are not equipped to copy and mail out such maps, nor are they equipped to scan them for electronic distribution.

You may use the docket at <https://www.regulations.gov> to access documents in the Headquarters docket. Please note that there are differences between the Headquarters docket and the regional dockets, and those differences are outlined in this preamble above.

#### *E. How do I submit my comments?*

Follow the online instructions detailed above in the **ADDRESSES** section for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

#### *F. What happens to my comments?*

The EPA considers all comments received during the comment period. Significant comments are typically addressed in a support document that the EPA will publish concurrently with the **Federal Register** document if, and when, the site is listed on the NPL.

#### *G. What should I consider when preparing my comments?*

Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific information that the EPA should consider and how it affects individual HRS factor values or other listing criteria (*Northside Sanitary Landfill v. Thomas*, 849 F.2d 1516 (D.C. Cir. 1988)). The EPA will not address voluminous comments that are not referenced to the HRS or other listing criteria. The EPA will not address comments unless they indicate which component of the HRS documentation record or what particular point in the EPA's stated eligibility criteria is at issue.

#### *H. May I submit comments after the public comment period is over?*

Generally, the EPA will not respond to late comments. The EPA can guarantee only that it will consider those comments postmarked by the close of the formal comment period. The EPA has a policy of generally not delaying a final listing decision solely to accommodate consideration of late comments.

#### *I. May I view public comments submitted by others?*

During the comment period, comments are placed in the Headquarters docket and are available to the public on an "as received" basis. A complete set of comments will be available for viewing in the regional dockets approximately one week after the formal comment period closes.

All public comments, whether submitted electronically or in paper form, will be made available for public viewing in the electronic public docket at <https://www.regulations.gov> as the EPA receives them and without change, unless the comment contains copyrighted material, CBI or other information whose disclosure is restricted by statute. Once in the public dockets system, select "search," then key in the appropriate docket ID number.

#### *J. May I submit comments regarding sites not currently proposed to the NPL?*

In certain instances, interested parties have written to the EPA concerning sites that were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the

period of formal proposal and comment will not generally be included in the docket.

## **II. Background**

### *A. What are CERCLA and SARA?*

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled releases or threatened releases of hazardous substances, and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law 99-499, 100 Stat. 1613 *et seq.*

### *B. What is the NCP?*

To implement CERCLA, the EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances or releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. The EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under section 105(a)(8)(A) of CERCLA, the NCP also includes "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases of hazardous substances, pollutants or contaminants (42 U.S.C. 9601(23)).

### *C. What is the National Priorities List (NPL)?*

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants or contaminants throughout the United States. The list, which is appendix B of the NCP (40 CFR part 300), was required



under section 105(a)(8)(B) of CERCLA, as amended. Section 105(a)(8)(B) defines the NPL as a list of “releases” and the highest priority “facilities” and requires that the NPL be revised at least annually. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is only of limited significance, however, as it does not assign liability to any party or to the owner of any specific property. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

For purposes of listing, the NPL includes two sections, one of sites that are generally evaluated and cleaned up by the EPA (the “General Superfund section”), and one of sites that are owned or operated by other Federal agencies (the “Federal Facilities section”). With respect to sites in the Federal Facilities section, these sites are generally being addressed by other Federal agencies. Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody or control, although the EPA is responsible for preparing a Hazard Ranking System (“HRS”) score and determining whether the facility is placed on the NPL.

#### *D. How are sites listed on the NPL?*

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP): (1) A site may be included on the NPL if it scores sufficiently high on the HRS, which the EPA promulgated as appendix A of the NCP (40 CFR part 300). The HRS serves as a screening tool to evaluate the relative potential of uncontrolled hazardous substances, pollutants or contaminants to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), the EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. On January 9, 2017 (82 FR 2760), a subsurface intrusion component was added to the HRS to enable the EPA to consider human exposure to hazardous substances or pollutants and contaminants that enter regularly occupied structures through subsurface intrusion when evaluating sites for the NPL. The current HRS evaluates four pathways: ground water, surface water, soil exposure and subsurface intrusion,

and air. As a matter of agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL. (2) Pursuant to 42 U.S.C. 9605(a)(8)(B), each State may designate a single site as its top priority to be listed on the NPL, without any HRS score. This provision of CERCLA requires that, to the extent practicable, the NPL include one facility designated by each State as the greatest danger to public health, welfare or the environment among known facilities in the State. This mechanism for listing is set out in the NCP at 40 CFR 300.425(c)(2); (3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed without any HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- The EPA determines that the release poses a significant threat to public health.
- The EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

The EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658) and generally has updated it at least annually.

#### *E. What happens to sites on the NPL?*

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the “Superfund”) only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (“Remedial actions” are those “consistent with permanent remedy, taken instead of or in addition to removal actions.” \* \* \* 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL “does not imply that monies will be expended.” The EPA may pursue other appropriate authorities to respond to the releases, including enforcement action under CERCLA and other laws.

#### *F. Does the NPL define the boundaries of sites?*

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so. Indeed, the precise nature and extent of the site are typically not known at the time of listing.

Although a CERCLA “facility” is broadly defined to include any area

where a hazardous substance has “come to be located” (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. However, the NPL site is not necessarily coextensive with the boundaries of the installation or plant, and the boundaries of the installation or plant are not necessarily the “boundaries” of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location where that contamination has come to be located, or from where that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the “Jones Co. Plant site”) in terms of the property owned by a particular party, the site, properly understood, is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the “site”). The “site” is thus neither equal to, nor confined by, the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. In addition, the site name is merely used to help identify the geographic location of the contamination; and is not meant to constitute any determination of liability at a site. For example, the name “Jones Co. Plant site,” does not imply that the Jones Company is responsible for the contamination located on the plant site.

The EPA regulations provide that the remedial investigation (“RI”) “is a process undertaken . . . to determine the nature and extent of the problem presented by the release” as more information is developed on site contamination, and which is generally performed in an interactive fashion with the feasibility Study (“FS”) (40 CFR 300.5). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as

more is learned about the source(s) and the migration of the contamination. However, the HRS inquiry focuses on an evaluation of the threat posed and therefore the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination “has come to be located” before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted previously, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, it can submit supporting information to the agency at any time after it receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

#### *G. How are sites removed from the NPL?*

The EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that the EPA shall consult with States on proposed deletions and shall consider whether any of the following criteria have been met:

- (i) Responsible parties or other persons have implemented all appropriate response actions required;
- (ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or
- (iii) The remedial investigation has shown the release poses no significant threat to public health or the environment and taking of remedial measures is not appropriate.

#### *H. May the EPA delete portions of sites from the NPL as they are cleaned up?*

In November 1995, the EPA initiated a policy to delete portions of NPL sites

where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and made available for productive use.

#### *I. What is the Construction Completion List (CCL)?*

The EPA also has developed an NPL construction completion list (“CCL”) to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when: (1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved; (2) the EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or (3) the site qualifies for deletion from the NPL. For more information on the CCL, see the EPA’s internet site at <https://www.epa.gov/superfund/construction-completions-national-priorities-list-npl-sites-number>.

#### *J. What is the Sitewide Ready for Anticipated Use measure?*

The Sitewide Ready for Anticipated Use measure (formerly called Sitewide Ready-for-Reuse) represents important Superfund accomplishments, and the measure reflects the high priority the EPA places on considering anticipated future land use as part of the remedy selection process. See Guidance for Implementing the Sitewide Ready-for-Reuse Measure, May 24, 2006, Office of Solid Waste and Emergency Response (OSWER) 9365.0–36. This measure applies to final and deleted sites where construction is complete, all cleanup goals have been achieved, and all institutional or other controls are in place. The EPA has been successful on many occasions in carrying out remedial actions that ensure protectiveness of human health and the environment for current and future land uses, in a

manner that allows contaminated properties to be restored to environmental and economic vitality. For further information, please go to <https://www.epa.gov/superfund/about-superfund-cleanup-process#reuse>.

#### *K. What is State/Tribal correspondence concerning NPL listing?*

In order to maintain close coordination with States and tribes in the NPL listing decision process, the EPA’s policy is to determine the position of the States and tribes regarding sites that the EPA is considering for listing. This consultation process is outlined in two memoranda that can be found at the following website: <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

The EPA has improved the transparency of the process by which State and Tribal input is solicited. The EPA is using the Web and where appropriate more structured State and Tribal correspondence that: (1) Explains the concerns at the site and the EPA’s rationale for proceeding; (2) requests an explanation of how the State intends to address the site if placement on the NPL is not favored; and (3) emphasizes the transparent nature of the process by informing States that information on their responses will be publicly available.

A model letter and correspondence between the EPA and States and tribes where applicable, is available on the EPA’s website at <https://www.epa.gov/superfund/statetribal-correspondence-concerning-npl-site-listing>.

### **III. Contents of This Proposed Rule**

#### *A. Proposed Additions to the NPL*

In this proposed rule, the EPA is proposing to add three sites to the NPL, all to the General Superfund section. All of the sites in this rulemaking are being proposed for NPL addition based on an HRS score of 28.50 or above.

The sites are presented in the table below.

#### **GENERAL SUPERFUND SECTION**

| State    | Site name                  | City/county           |
|----------|----------------------------|-----------------------|
| CA ..... | Afterthought Mine .....    | Bella Vista.          |
| MI ..... | Gelman Sciences Inc .....  | Ann Arbor.            |
| WA ..... | Upper Columbia River ..... | Upper Columbia River. |

#### IV. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

##### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This rule does not contain any information collection requirements that require approval of the OMB.

##### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This rule listing sites on the NPL does not impose any obligations on any group, including small entities. This rule also does not establish standards or requirements that any small entity must meet and imposes no direct costs on any small entity. Whether an entity, small or otherwise, is liable for response costs for a release of hazardous substances depends on whether that entity is liable under CERCLA 107(a). Any such liability exists regardless of whether the site is listed on the NPL through this rulemaking.

##### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local, or Tribal governments or the private sector. Listing a site on the NPL does not itself impose any costs. Listing does not mean that the EPA necessarily will undertake remedial action. Nor does listing require any action by a private party, state, local, or Tribal governments or determine liability for response costs. Costs that arise out of site responses result from future site-specific decisions regarding what actions to take, not

directly from the act of placing a site on the NPL

##### E. Executive Order 13132: Federalism

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175. Listing a site on the NPL does not impose any costs on a tribe or require a tribe to take remedial action. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because this action itself is procedural in nature (adds sites to a list) and does not, in and of itself, provide protection from environmental health and safety risks. Separate future regulatory actions are required for mitigation of environmental health and safety risks.

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

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

##### I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes the human health or environmental risk addressed by this

action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment. As discussed in section I.C. of the preamble to this action, the NPL is a list of national priorities. The NPL is intended primarily to guide the EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances, pollutants or contaminants. The NPL is of only limited significance as it does not assign liability to any party. Also, placing a site on the NPL does not mean that any remedial or removal action necessarily need be taken.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Barry N. Breen,**

*Principal Deputy Assistant Administrator,  
Office of Land and Emergency Management.*

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 300 as follows:

#### PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

■ 2. Amend table 1 of appendix B to part 300 by adding the entries for “CA, Afterthought Mine”, “MI, Gelman Sciences Inc”, and “WA, Upper Columbia River” in alphabetical order by State to read as follows:

#### Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

| State | Site name            | City/county           | Notes <sup>a</sup> |
|-------|----------------------|-----------------------|--------------------|
| CA    | Afterthought Mine    | Bella Vista.          |                    |
| MI    | Gelman Sciences Inc  | Ann Arbor.            |                    |
| WA    | Upper Columbia River | Upper Columbia River. |                    |

<sup>a</sup> A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

S = State top priority (included among the 100 top priority sites regardless of score).

P = Sites with partial deletion(s).

\* \* \* \* \*

[FR Doc. 2024-04778 Filed 3-6-24; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 11

[PS Docket No. 15-94; FR ID 206752]

### The Emergency Alert System

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In the Notice of Proposed Rulemaking (NPRM), the Federal Communications Commission (the FCC or the Commission) proposes and seeks comment on implementing a multilingual alert processing model for the Emergency Alert System (EAS) through which brief, pre-scripted (or “template”) alert messages that have been pre-translated into the 13 most commonly spoken non-English languages in the United (as well as in English), can be initiated by alert originators for distribution to the public by the TV and radio broadcasters, cable service providers, and other “EAS Participant” services that make up the EAS public alert distribution system. The NPRM also seeks comment a wide range of specific technical, operational, cost and implementation timing issues related to the template alert distribution model.

**DATES:** Comments on the NPRM are due on or before April 8, 2024, and reply comments are due on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by PS Docket No. 15-94, by any of the following methods:

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

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

Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** For further information concerning the information contained in this document, send an email to David Munson, Attorney Advisor, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau at 202-418-2921 or David.Munson@fcc.gov, or George Donato,

Associate Division Chief, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau at [George.Donato@fcc.gov](mailto:George.Donato@fcc.gov) or call 202-418-0729.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Notice of Proposed Rulemaking (NPRM) in PS Docket Nos. 15-94, FCC 24-23, adopted on February 15, 2024, and released on February 16, 2024. The full text of this document is available at <https://www.fcc.gov/document/fcc-proposes-solution-expand-multilingual-emergency-alerts-0>.

### Synopsis

The EAS is a national public warning system through which TV and radio broadcasters, cable systems, direct broadcast satellite service providers, digital audio radio service providers and other service providers (“EAS Participants”) deliver alerts to the public to warn them of impending emergencies and dangers to life and property. EAS alerts are initiated by local, state and national alert originators (such as State Governor’s offices, state and county emergency management authorities, Public Safety Answering Points, state and county fire departments, National Weather Service, etc.). In terms of its architecture, the EAS is comprised of both a broadcast-based, or “legacy,” system and an internet-based, or “Common Alerting Protocol (CAP)” system. The legacy EAS distributes alerts over-the-air from one broadcast station antenna to another. Alerts can also be sent over the internet in CAP format for distribution to EAS Participants via the Federal Emergency Management Agency’s Integrated Public Alert and Warning System. Alerts can be initiated in multiple languages in both the legacy and CAP-based EAS architectures.

The Commission has taken various actions over the years to promote multilingual alerting, such as tasking bodies with examining multilingual alerting, issuing occasional guidance on multilingual alerting, and conducting a multilingual alerting workshop to develop and share information on multilingual strategies. The Commission also collects information on EAS Participants' multilingual EAS activities as well as the primary languages spoken in their service areas. Data reported to the Commission suggests that there are a range of non-English languages that are spoken on a primary basis in EAS Participant service areas across the country, but only minimal issuance of EAS messages in languages other than English.

The NPRM seeks to address the shortfall in multilingual alert accessibility by enabling alert originators to issue alerts that have already been translated into non-English languages. Specifically, the NPRM proposes a model for distributing multilingual alerts by which the Commission would create brief, pre-scripted (or "template") alerts in Arabic, Chinese, French, German, Haitian Creole, Hindi, Italian, Korean, Portuguese, Russian, Spanish, Tagalog, and Vietnamese, as well as in English, for selected emergency events (such as earthquake, wildfire, etc.). The template scripts (in all languages) would be stored in EAS devices to serve as the visual portion of the alert. Translated audio for each template also would be provided as audio files or links to streaming audio. EAS Participants would be required to transmit template alerts using the template audio and script in the template language that corresponds to the EAS Participants' primary language (*i.e.*, the language of their programming content); where the EAS Participant offers multiple channels, it would transmit on such channels the template audio and script in the template language that corresponds to the programming content on each channel (*e.g.*, the Spanish language template would be transmitted on channels that provide Spanish language programming, and the English language template would be transmitted on channels that provide English language programming).

The NPRM seeks comment on the proposed template alert distribution model, generally, as well as on wide range of specific technical, operational, cost and implementation timing issues related thereto.

### Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." As required by the RFA, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

#### *A. Need for, and Objectives of, the Proposed Rules*

In the NPRM, the Commission seeks comment on the efficacy and feasibility of implementing a process for distributing template-based EAS messages in the 13 most commonly spoken non-English languages (according to U.S. Census data)—Arabic, Chinese, French, German, Haitian Creole, Hindi, Italian, Korean, Portuguese, Russian, Spanish, Tagalog, and Vietnamese—as well as in English. The Commission proposes an approach for processing multilingual template EAS alerts that is fairly consistent with existing procedures for processing EAS alerts, and requests comment on specific relevant alerting elements, such as template-specific event codes, template script-based visual messages, and template audio. In a departure from existing procedures, however, the Commission also proposes that EAS Participants would be required to transmit the template alerts in the non-English or English template language corresponds to the programming content of their channel(s); EAS Participants that provide multiple channels of programming (other than satellite-based EAS Participants that transmit on a nationwide basis) would transmit the template visual and audio messages on each channel in the language that corresponds to the programming content carried on such channel.

The Commission also evaluates and seeks comment on whether for EAS templates alerts, it should follow a similar approach to that followed in the Third Report and Order in PS Docket

Nos. 15–94, 15–91, 88 FR 86824 (Dec. 15, 2023) (Final rule; correction, 89 FR 2885 (Jan. 17, 2024)), where the Commission directed the Public Safety and Homeland Security Bureau (Bureau) to propose and seek comment on a set of emergency alert messages for support via templates in English, the 13 most commonly spoken languages in the U.S., and to seek comment on the most common messages used by alerting authorities, as well as the most time-sensitive messages which are likely critical for immediate comprehension. Lastly, the Commission explores and requests comment on implementation related matters, including revising or amending the ECIG Implementation Guide, time requirements for manufacturers to develop, test and release any necessary software updates, and whether a template-based alert processing model would present any unique challenges or require modification of EAS Participant transmission processing systems upstream or downstream from the EAS device that would affect implementation timeframes.

#### *B. Legal Basis*

The proposed action is authorized pursuant to: sections 1, 2, 4(i), 4(n), 303, 335, 624(g), 706 and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(n), 303, 335, 544(g), 606, and 613.

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

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

There are small entities among the current EAS Participants, which include 17,521 radio broadcasters and 8,133 other participants, including television broadcasters, cable operators, satellite operators, and other businesses in the industry segments discussed below, that could be impacted by the changes proposed in the NPRM.

Small Businesses, Small Organizations, and Small Governmental Jurisdictions. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

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

Finally, the small entity described as a "small governmental jurisdiction" is defined generally as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments— independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of "small governmental jurisdictions."

Radio Stations. This industry is comprised of "establishments primarily engaged in broadcasting aural programs by radio to the public." Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies

firms having \$41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than \$25 million per year. Based on this data and the SBA's small business size standard, we estimate a majority of such entities are small entities.

The Commission estimates that as of September 30, 2023, there were 4,452 licensed commercial AM radio stations and 6,670 licensed commercial FM radio stations, for a combined total of 11,122 commercial radio stations. Of this total, 11,120 stations (or 99.98%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on October 4, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of September 30, 2023, there were 4,263 licensed noncommercial (NCE) FM radio stations, 1,978 low power FM (LPFM) stations, and 8,928 FM translators and boosters. The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

We note, however, that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of "small business" requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of "small business" is that the entity must be

independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

FM Translator Stations and Low Power FM Stations. FM translators and Low Power FM Stations are classified in the industry for Radio Stations. The Radio Stations industry comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies firms having \$41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated during that year. Of that number, 1,879 firms operated with revenue of less than \$25 million per year. Therefore, based on the SBA's size standard we conclude that the majority of FM Translator stations and Low Power FM Stations are small. Additionally, according to Commission data, as of September 30, 2023, there were 8,928 FM Translator Stations and 1,978 Low Power FM licensed broadcast stations. The Commission however does not compile and otherwise does not have access to information on the revenue of these stations that would permit it to determine how many of the stations would qualify as small entities. For purposes of this regulatory flexibility analysis, we presume the majority of these stations are small entities.

Television Broadcasting. This industry is comprised of "establishments primarily engaged in broadcasting images together with sound." These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having \$41.5 million or less in annual receipts as small. 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year. Of that number, 657 firms had revenue of less than \$25,000,000. Based on this data we estimate that the majority of television

broadcasters are small entities under the SBA small business size standard.

As of September 30, 2023, there were 1,377 licensed commercial television stations. Of this total, 1,258 stations (or 91.4%) had revenues of \$41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on October 4, 2023, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of September 30, 2023, there were 383 licensed noncommercial educational (NCE) television stations, 380 Class A TV stations, 1,889 LPTV stations and 3,127 TV translator stations. The Commission, however, does not compile and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of these television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, contains a size standard for a "small cable operator," which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice. Based on industry data, only six cable system operators have more than 677,000 subscribers. Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Cable Companies and Systems (Rate Regulation). The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide. Based on industry data, there are about 420 cable companies in the U.S. Of these, only seven have more than 400,000 subscribers. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. Based on industry data, there are about 4,139 cable systems (headends) in the U.S. Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

Satellite Telecommunications. This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$38.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year. Of this number, 242 firms had revenue of less than \$25 million. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services. Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

All Other Telecommunications. This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Providers of internet services

(e.g., dial-up ISPs) or Voice over internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry. The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small. U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year. Of those firms, 1,039 had revenue of less than \$25 million. Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

Broadband Radio Service and Educational Broadband Service. Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable," transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). Wireless cable operators that use spectrum in the BRS often supplemented with leased channels from the EBS, provide a competitive alternative to wired cable and other multichannel video programming distributors. Wireless cable programming to subscribers resembles cable television, but instead of coaxial cable, wireless cable uses microwave channels.

In light of the use of wireless frequencies by BRS and EBS services, the closest industry with a SBA small business size standard applicable to these services is Wireless Telecommunications Carriers (except Satellite). The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year. Of this number, 2,837 firms employed fewer than 250 employees. Thus under the SBA size standard, the Commission estimates that a majority of licensees in this industry can be considered small.

According to Commission data as December 2021, there were approximately 5,869 active BRS and EBS licenses. The Commission's small business size standards with respect to BRS involves eligibility for bidding credits and installment payments in the auction of licenses for these services. For the auction of BRS licenses, the



Commission adopted criteria for three groups of small businesses. A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues exceed \$3 million and did not exceed \$15 million for the preceding three years, a small business is an entity that, together with its affiliates and controlling interests, has average gross revenues exceed \$15 million and did not exceed \$40 million for the preceding three years, and an entrepreneur is an entity that, together with its affiliates and controlling interests, has average gross revenues not exceeding \$3 million for the preceding three years. Of the ten winning bidders for BRS licenses, two bidders claiming the small business status won 4 licenses, one bidder claiming the very small business status won three licenses and two bidders claiming entrepreneur status won six licenses. One of the winning bidders claiming a small business status classification in the BRS license auction has an active license as of December 2021.

The Commission's small business size standards for EBS define a small business as an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$55 million for the preceding five (5) years, and a very small business is an entity that, together with its affiliates, its controlling interests and the affiliates of its controlling interests, has average gross revenues that are not more than \$20 million for the preceding five (5) years. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

Direct Broadcast Satellite ("DBS") Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry

which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.

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

Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small. U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year. Of this number, 624 firms had fewer than 250 employees. Thus, under the SBA size standard, the

majority of firms in this industry can be considered small.

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

The proposed changes for which comment is sought in the NPRM, if adopted, would impose new or modified reporting, recordkeeping or other compliance obligations on certain small, as well as other, entities required to distribute EAS alerts to the public (*i.e.*, "EAS Participants"), and entities that manufacture EAS equipment. The changes likely would require EAS participants to acquire and/or update software, or modify equipment. Specifically, the Commission's proposals could require development and installation in existing EAS equipment Text-to-Speech (TTS) functionalities, audio files, video files, text files and additional memory capacity, displaying EAS messages in a secondary language when requested by an alert originator, using predefined and installed text, audio and video files, that likely would require EAS equipment manufacturers to develop software updates to implement such changes in deployed EAS equipment and EAS equipment in production. EAS Participants would have to acquire, and install such software updates in their EAS devices to enable the operational changes described above.

Without knowing precisely what changes would be required in EAS devices and potentially involved in interconnected transmission processing systems, it is difficult to estimate the total costs of implementing a template alert processing approach in EAS. However, based on the cost analyses discussed in the NPRM, which expects the costs to implement a template-based alerting system model to be similar to the mandatory software updates costs discussed in the Comprehensive Alerts Order, the Commission estimates the total costs for implementing the template alert processing approach discussed in the NPRM would be approximately \$12 million. This estimate assumes that template alert processing approach described above can be implemented via a regular software update patch that EAS Participants install in the normal course of business, and is based upon the costs of software installation, labor, and testing required to install the patch developed in the prior proceedings involving similar actions. The estimated \$12 million cost includes five hours of software labor time industry-wide, which was multiplied by the 25,519 estimated broadcasters and cable head-



ends, plus 2 DBS and 1 SDARS providers, resulting in 127,610 hours of software-related labor time. The hourly wage was calculated using an average hourly wage of \$60.07 for software and web developers, programmers, and testers, and factoring in a 45% markup of hourly wage for benefits, and a 5.5% inflation adjustment between 2022 and 2023, resulting in an hourly wage of \$91.89. Based on the estimate of 5 hours labor time at a cost of \$91.89 per hour (which we round up to \$92 per hour), the total estimated labor cost for each EAS Participant to install a software patch that configures the template mechanism in the EAS device is \$460, and the aggregate labor cost of approximately \$12 million. In addition to the costs accounted for in our estimate, the Commission is mindful that small and other entities may incur other costs to add memory capacity and/or firmware to EAS devices, for downstream transmission processing system changes that may be required, and costs associated with older EAS devices currently in use that may not be able to be updated, or modified to incorporate a template-based alert processing model. Thus, our cost estimate may need to be adjusted.

To help the Commission more fully evaluate the cost of compliance for small entities if we were to adopt the proposed rule changes in the NPRM, the Commission requested comments on the cost implications and cost estimates to implement these proposals, and asked whether there are more efficient and less burdensome alternatives that might achieve the same results, including alternatives specific to smaller entities. At this time the Commission is not currently in a position to determine whether, if adopted, the proposed changes will require small entities to hire attorneys, engineers, consultants, or other professionals to comply. Since small entities have had to implement similar types of changes in prior proceedings, we do not foresee a compliance obligation for these entities to implement a template-based alert processing model will impose a significant burden. However, the Commission expects the information we receive in comments including cost and benefit analyses, to help us identify and evaluate relevant matters for small entities, including compliance costs and other burdens that may result if the changes discussed in the NPRM involving implementation of a template-based alert processing model were adopted.

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

The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities.”

In the NPRM, the Commission’s proposals on implementing multilingual template-based alerts in EAS are designed to minimize economic impacts for small entities. The multilingual template approach would entail installing pre-scripted “template” text files in up to 13 non-English languages, and English, along with matching audio files (or possibly URL links to remotely stored audio files or streaming audio), depending upon the EAS Participant’s programming content. EAS Participants would be required to transmit template alerts in the language of their programming content, thus, if the only programming content offered by the EAS Participant is in English, that EAS Participant would need only install the English language script and audio file for each template alert adopted; an EAS Participant that offered multiple channels of programming content that included channels carrying programming content in, for example, English, Spanish, German and Creole would install the English, Spanish, German and Creole language scripts and audio files for each template alert adopted. The Commission expects that the operational, and EAS device changes required to implement the template system would entail installing a software update of the kind that is routinely installed by EAS Participants in the normal course of business, which is another cost saving measure for small entities. The Commission also seeks comment on whether streaming template audio from an external source where the template messages would be produced by the Commission, would be a more efficient mechanism for generating the audio message. The template scripts and audio files would

be produced by the Commission; small businesses would not be subject to the costs associated with translating the templates and instead would install pre-made templates via software update.

The Commission also sought comment on whether template alerts should be transmitted to the public consistent with the procedures in the ECIG Implementation Guide, and considered, if operationally and technically feasible, whether increasing the existing 2-minute limit for template alerts to accommodate multilingual alert combinations would be a sensible approach to facilitate multilingual alerting. Other template alert transmission alternatives considered by the Commission were: (1) whether to require small and other EAS Participants to transmit templates only in the language that corresponds to the language of the programming content of their channel(s), as a way of reducing the potential programming interruption; and (2) whether, where an EAS Participant’s programming content is not in one of the proposed 13 non-English template languages, or English, the English language template script and audio should be transmitted on that channel.

Having data on the various issues the Commission has raised and requested comment on in the NPRM relating to the technical feasibility, costs, benefits and the potential impact of any resulting EAS rule changes, particularly information specific to smaller entities, will assist with the Commission’s evaluation of the economic impact on small entities, and help to determine if any rule changes are adopted, how to minimize any significant economic for small entities and identify any potential alternatives not already considered. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and reply comments filed in response to the NPRM. Moreover, the Commission’s evaluation of the comments will shape the final alternatives it considers, the final conclusions it reaches, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities.

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

None.

#### **Initial Paperwork Reduction Act of 1995 Analysis**

The NPRM may contain potential new or revised information collection

requirements. Therefore, we seek comment on potential new or revised information collections subject to the Paperwork Reduction Act of 1995. If the Commission adopts any new or revised information collection requirements, the Commission will publish a notice in the **Federal Register** inviting the general public and the Office of Management and Budget to comment on the information collection requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

#### Providing Accountability Through Transparency Act

Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document is available on <https://www.fcc.gov/proposed-rulemakings>.

#### Comments and Reply Comments

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998), <https://transition.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf>.

#### Ex Parte Rules

The NPRM portion of this proceeding shall be treated as “permit-but-disclose” proceedings in accordance with the Commission's ex parte rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's

written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

#### Ordering Clauses

Accordingly, *it is ordered*, pursuant to sections 1, 2, 4(i), 4(n), 303, 335, 624(g), 706 and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(n), 303, 335, 544(g), 606, 613, that this Notice of Proposed Rulemaking is *adopted*.

*It is further ordered* that the Office of the Secretary, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2024–04899 Filed 3–6–24; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 680

[Docket No. 240229–0066]

RIN 0648–BM81

### Fisheries of the Exclusive Economic Zone; Bering Sea and Aleutian Islands Crab Rationalization Program

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

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

**SUMMARY:** NMFS issues a proposed rule to implement Amendments 54 and 55 to the Fishery Management Plan (FMP) for Bering Sea and Aleutian Islands (BSAI) King and Tanner Crabs (Crab FMP). This proposed rule would revise two provisions of the Crab Rationalization Program (CR Program) to do the following: change active crab fishery participation requirements for crab quota share (crab QS) established for vessel operators and crew, and expand the exemptions for CR Program custom processing from processor use caps and remove the CR Program processor facility use cap. These actions are intended to provide operators and crew greater flexibility in meeting CR Program participation requirements and to improve CR Program processor efficiency. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Crab FMP, and other applicable laws.

**DATES:** Submit comments on or before April 8, 2024.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2023–0159, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2023–0159 in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendments 54 and 55 to the Crab FMP, the Regulatory Impact Reviews (RIRs) prepared for Amendment 54 and Amendment 55, and the Categorical Exclusion prepared for this action may be obtained from <https://www.regulations.gov> or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>. NMFS determined that this proposed action amending the Crab FMP and implementing the amendments are categorically excluded from requirements to otherwise prepare an environmental assessment under the National Environmental Policy Act.

The Environmental Impact Statement (Program EIS), RIR (Program RIR), Final Regulatory Flexibility Analysis (Program FRFA), and Social Impact Assessment that were previously prepared for the CR Program are available from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Andrew Olson, 907-586-7228, [andrew.olson@noaa.gov](mailto:andrew.olson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The king and Tanner crab fisheries in the exclusive economic zone of the BSAI are managed under the Crab FMP. The Crab FMP was prepared by the Council under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Pub. L. 108-199, section 801). Regulations implementing the Crab FMP, including the CR Program, are primarily located at 50 CFR part 680.

## Background

NMFS implemented the CR Program as a limited access privilege program, also called a catch share program, for nine crab fisheries in the BSAI on March 2, 2005 (70 FR 10174). The CR Program FMP has been amended seventeen times since 2005.

Amendments 54 and 55 to the Crab FMP and this proposed rule would revise two provisions of the CR Program to: (1) change active participation requirements for quota share established for CR Program vessel operators and crew, and (2) expand exemptions for

custom processing from processor use caps and remove the processor facility use caps.

## CR Program Overview

The CR Program includes nine crab fisheries in the BSAI: Bristol Bay red king crab (BBR) (*Paralithodes camtschaticus*), Western Aleutian Islands (Adak) golden king crab (WAG) (*Lithodes aequispinus*)—West of 174° W, Eastern Aleutian Islands (Dutch Harbor) golden king crab (EAG)—East of 174° W, Western Aleutian Islands (Adak) red king crab (WAI)—West of 179° W, Saint Matthew Island blue king crab (*P. platypus*) (SMB), Pribilof Islands blue and red king crab (PIK), Western Bering Sea Tanner crab (WBT) (*Chionoecetes bairdi*)—West of 166° W, Eastern Bering Sea Tanner crab (EBT)—East of 166° W, and Bering Sea snow crab (BSS) (*C. opilio*). In this document, the phrases “crab fishery” and “crab fisheries,” quota share (QS), “individual fishing quota (IFQ)” refer to these fisheries and the associated CR Program, unless otherwise specified.

The CR Program includes QS and processor quota share (PQS) that are revocable privileges and allow the holder to harvest or process a specific percentage of the annual total allowable catch (TAC) in a crab fishery, reduced by the allocation to the Western Alaska Community Development Quota (CDQ) Program and the Adak Community Development Allocation. CDQ entities are allocated 10 percent of the crab TACs and Adak is issued an annual allocation of 10 percent of the WAG TAC to provide BSAI communities the opportunity to participate and invest in the crab fisheries. This annual calculation is explained in regulations at § 680.40(h).

The CR Program initially assigned QS to persons based on their historic participation in one or more of the nine crab fisheries during a specific time period. Under the CR Program, NMFS issued four types of QS: catcher vessel owner (CVO) QS was assigned to holders of License Limitation Program (LLP) licenses who delivered their catch to shoreside crab processors or to stationary floating crab processors; catcher/processor owner (CPO) QS was assigned to LLP license holders who harvested and processed their catch at sea; catcher/processor crew (CPC) QS was issued to operators and crew on board catcher/processor vessels; and catcher vessel crew (CVC) QS was issued to operators and crew on board catcher vessels. Each crab fishing year, which is the period from July 1 of one calendar through June 30 of the following calendar year (§ 680.2), a

person who holds QS in one or more of the crab fisheries may receive an exclusive harvest privilege for a portion of the annual TAC of a crab fishery, called IFQ. CVC QS and CPC QS, also called C shares, are described later in this preamble in *C Shares and Active Participation Requirements*.

A person's QS holdings equates to specific pounds of IFQ that are calculated on an annual basis for use in the corresponding crab fishing year. Each year, a QS holder submits a timely and complete application for a crab IFQ permit in order to receive IFQ for each crab fishery in which the person holds QS (§ 680.40(g)). IFQ provides the crab QS holder with an annual allocation of pounds of crab for harvest in a specific crab fishery during the year in which it was allocated. The amount of each annual IFQ allocation is based on the amount of QS held by a person in relation to the total QS pool in a crab fishery (§ 680.40(h)). For example, a person's QS equaling one percent of the QS pool in a crab fishery would receive IFQ to harvest one percent of the annual TAC allocated to QS in that crab fishery.

NMFS also issued PQS to CR Program processors based on their historic participation in one or more of the nine crab fisheries during a specific period. Each year, PQS yields an exclusive privilege to process a portion of the IFQ for each crab fishery. This annual exclusive processing privilege is called individual processor quota (IPQ).

Only a portion of the QS issued yields IFQ that is required to be delivered to a processor with IPQ also known as “share matching.” Share matching requires IFQ holders to match up shares with IPQ holders that have available IPQ. CVO QS is subject to designation as either Class A IFQ or Class B IFQ. Ninety percent of the IFQ derived from CVO QS is designated as Class A IFQ, and the remaining 10 percent is designated as Class B IFQ. Class A IFQ must be matched and delivered to a processor with IPQ. Class B IFQ is not required to be delivered to a processor holding IPQ for that fishery. Each year, there is a one-to-one match of the total pounds of Class A IFQ with the total pounds of IPQ issued in each crab fishery.

Annually, QS holders must submit a timely and complete “Application for Annual Crab Individual Fishing Quota (IFQ) Permit” for allocations of IFQ for the upcoming crab fishing year in order to receive IFQ. IFQ applicants must indicate whether or not they are joining a cooperative. Each cooperative submits an annual IFQ application that includes the QS holder's annual IFQ application (or a copy of that application). Because

IPQ is not subject to cooperative management, a PQS holder applies for IPQ directly to NMFS, and NMFS issues IPQ directly to the PQS holder. Under regulations at § 680.4(f), all applications for IFQ, IPQ, and cooperative IFQ must be filed with the NMFS Restricted Access Management (RAM) Division by June 15. Unresolved applications at the time of IFQ and IPQ issuance can result in a mismatch of A share IFQ to the IPQ it must be matched with.

Although the crab fishing year begins on July 1 and runs through June 30 of the following calendar year, individual crab fisheries open at various times. For instance, the WAG and EAG crab fisheries typically open on August 1 and the remaining seven crab fisheries open on October 15 or later in the crab fishing year. Therefore, NMFS prioritizes review of IFQ and IPQ applications based on the timing of fishery openings. To aid QS and PQS holders in meeting the June 15 application deadline, NMFS provides application forms on its website (see **ADDRESSES**), highlights the application deadline on the website, and sends notices to QS and PQS holders near the end of the crab fishing year reminding them to apply for IFQ or IPQ for the next crab fishing year.

Crab fisheries are also subject to provisions intended to maintain crab processing activity in communities that had historic crab processing activity. Crab fisheries participants, such as catcher vessels, are subject to regional delivery and processing requirements, commonly known as regionalization. Certain crab fisheries, the WBT, EBT, and a portion of the WAG QS, are not regionalized. Crab fisheries are also subject to the right-of-first-refusal (ROFR) provisions included in the CR Program, with the exception of WBT, EBT, WAG and WAI. The ROFR provisions provide certain Eligible Crab communities (ECC) (§ 680.2) with an option to purchase PQS or IPQ that would otherwise be transferred outside of the community holding the ROFR.

The CR Program limits the amount of QS that a person can hold (*i.e.*, own), the amount of IFQ that a person can use (*i.e.*, harvest crab), and the amount of IFQ that can be used on board a vessel (*i.e.*, vessel harvest cap). Similarly, the CR Program limits the amount of PQS that a person, such as a crab processor, can hold (*i.e.*, own), the amount of IPQ that a person can use (*i.e.*, process crab), and the amount of IPQ that can be processed or custom processed at a given facility CR Program facility (*i.e.*, processor cap). These limits are commonly referred to as QS ownership caps and use caps. The CR Program limits on IPQ use and holding and the

amount of IPQ that can be processed at a given facility are discussed later in this preamble in the *IPQ Use Caps and Custom Processing Arrangements* section.

The following sections of this preamble focus on the two proposed actions and describe (1) background information on CVC QS and CPC QS and active participation requirements, the annual IFQ and IPQ application process, IPQ use caps and custom processing arrangements, and the facility use cap; (2) the need for Amendment 54 to the Crab FMP; (3) the need for Amendment 55 to the Crab FMP; and (4) the specific provisions and impacts of this proposed rule.

#### *C Shares and Active Participation Requirements*

NMFS initially allocated 3 percent of the QS to individuals holding State of Alaska Commercial Fisheries Entry Commission Interim Use Permits, generally vessel operators, who met specific historic and recent participation requirements in crab fisheries. After the initial issuance of CVC QS and CPC QS (collectively referred to as C shares), individuals may only acquire CVC QS or CPC QS through transfer (*i.e.*, purchasing QS on the open market). The following CVC QS and CPC QS provisions are the subject of this action.

An individual's CVC QS or CPC QS holdings equate to specific pounds of IFQ that are calculated on an annual crab fishing year basis. By June 15 of each crab fishing year, a CVC QS or CPC QS holder who wishes to participate in that crab fishing year's crab fishery must submit a timely and complete application for a crab IFQ permit in one or more crab fisheries in which that person holds QS.

Both in original CR Program design and subsequently reinforced through Amendment 31 (discussed below) to the Crab FMP (80 FR 15891, March 26, 2015), the Council and NMFS intended that individuals holding CVC QS and CPC QS be active participants in CR Program crab fisheries. Since June 2018 (3 years after implementation of Amendment 31), in order to receive an annual allocation of CVC IFQ or CPC IFQ, the regulations require a CVC QS and CPC QS holder to have met either of the following conditions to demonstrate active participation:

- (1) Participated as crew in at least one delivery in a CR Program crab fishery in the 3 crab fishing years preceding the crab fishing year for which the holder is applying for IFQ; or
- (2) If the individual was an initial recipient of CVC QS or CPC QS, participated as crew in at least 30 days

of fishing in a commercial fishery managed by the State of Alaska or a U.S. commercial fishery in Federal waters off Alaska during the 3 crab fishing years preceding the crab fishing year for which the QS holder is applying for IFQ (§ 680.40(g)(2)).

However, if a CVC QS or CPC QS holder holds QS in only a single crab fishery and that crab fishery is closed to fishing for an entire crab fishing year, NMFS will exclude that year when determining whether the CVC QS or CPC QS holder has satisfied the active participation requirement. If the CVC QS or CPC QS holder does not successfully demonstrate active participation over a 3-year period, the holder will not be issued IFQ for that subsequent crab fishing year.

While a CVC QS and CPC QS holder has 3 years in which to demonstrate active participation in order to receive IFQ, there is a different period of time applied in order for the CVC QS and CPC QS holder to prevent revocation of the QS altogether. In order to retain CVC QS and CPC QS, an individual has 4 crab fishing years to meet these same participation requirements (§ 680.40(m)). The Council recommended revocation of CVC QS and CPC QS if the QS holder continues to be inactive as an incentive for CVC QS and CPC QS holders to divest so that the QS is not held by inactive individuals for extended periods of time. CVC QS and CPC QS holders are exempt from meeting the active participation requirements in order to receive CVC IFQ and CPC IFQ under two circumstances. First, CVC QS and CPC QS holders are exempt if they have held QS for less than 3 crab fishing years in order to receive annual allocation of IFQ (§ 680.40(g)(2)(iii)) and less than 4 crab fishing years in order to retain QS (§ 680.40(m)(5)). Second, CVC QS and CPC QS holders are exempt if they have at least 150 fishing days of sea time as part of a harvesting crew in any U.S. commercial fishery and was either an initial recipient of QS or participated as crew in at least one crab delivery in a crab fishery in any 3 of the 5 crab fishing years prior to the CR Program implementation (§ 680.41(c)(1)(vii)(B)).

In summary, and unless exempt from one of the requirements described in the preceding paragraph, if a CVC QS or CPC QS holder fails to satisfy the participation requirements for 3 consecutive crab fishing years, NMFS will send that individual a notice of withholding and will not issue IFQ for the subsequent crab fishing year (§ 680.40(g)(3)(i)). If a CVC QS or CPC QS holder fails to satisfy the

participation requirements for 4 consecutive crab fishing years and does not divest their CVC QS or CPC QS, NMFS will revoke the QS (§ 680.40(m)(4)). CVC QS and CPC QS holders are permitted to lease their IFQ and join cooperatives; however, CVC QS and CPC QS holders must meet the participation requirements in order to receive IFQ and retain QS (§ 680.40(m)). Regulations specifying eligibility to receive CVC or CPC QS or IFQ by transfer at § 680.41(c)(2)(ii)(C) would continue to apply and are unchanged by this proposed rule.

#### *Annual Application Process*

Annually, CVC QS and CPC QS holders must submit a timely and complete “Application for Annual Crab Individual Fishing Quota (IFQ) Permit” for allocations of IFQ for the upcoming crab fishing year.

Prior to the fishing season each year, NMFS will alert crab fishery participants about their QS status. NMFS’s notification process for CVC QS and CPC QS holders who fail to file their IFQ applications by the June 15 deadline or fail to meet participation requirements are similar. NMFS will issue a Notice of C Share QS Inactivity after reviewing the QS holder’s annual crab IFQ permit application if NMFS has determined that the QS holder has failed to meet the participation requirements or failed to file an IFQ application by the June 15 deadline. To ensure correct issuance of IFQ and IPQ (including the prescribed distribution of Class B IFQ derived from PQS holder affiliations), NMFS does not process any transfers of QS and PQS from the date applications for IFQ and IPQ are due (June 15) until issuance of those IFQ and IPQ (§ 680.41(b)(1)). Therefore, for crab fisheries that open in October, a CVC QS or CPC QS holder may not have an opportunity to transfer their QS after they receive an official Notice of C Share QS Inactivity.

Further information regarding the period to submit evidence of participation for CVC QS and CPC QS holders who receive a Notice of C share QS Inactivity and the Initial Administrative Determination (IAD) process when submitted evidence fails to demonstrate active participation is available for IFQ withholding under § 680.40(g)(3) and for QS revocations under § 680.43. The process and timelines for the evidentiary period remain unchanged by this proposed rule and are explained in the following paragraphs. There are two different deadlines within which a CVC QS and CPC QS holder may submit evidence of participation if the holder received a

notice of inactivity. A CVC QS or CPC QS holder who receives a Notice of C Share QS Inactivity will have 30 days to provide the information demonstrating participation as crew in at least one crab delivery that meets the requirements when the IFQ may be withheld. The CVC QS or CPC QS holder has 60 days to submit evidence of participation when the QS may be revoked. Following the expiration of the 30- or 60-day evidentiary period, NMFS will then send an Initial Administrative Determination (IAD) to the CVC QS or CPC QS holder if NMFS determines that the submitted evidence fails to demonstrate active participation as crew in at least one crab delivery or if the additional information or evidence is not provided within the time period specified. The IAD will explain the basis for the withholding of IFQ or for the revocation of QS determination.

A CVC QS or CPC QS holder who receives an IAD may appeal under the procedures set forth at 15 CFR part 906. To ensure that access to an annual allocation is not lost should a QS holder prevail on appeal of the IAD, NMFS holds in reserve the amount of IFQ in dispute until final agency action on the IAD. In some instances, final agency action is reached before NMFS issues IFQ for the upcoming crab fishing year, allowing NMFS to either issue the IFQ to the successful appellant or return the IFQ to the general pool for distribution if the IAD was not appealed or the appellant was unsuccessful in the appeal. However, in instances where a final agency action is not reached before NMFS issues IFQ for the upcoming crab fishing year, NMFS must continue to hold the disputed IFQ in reserve due to being unable to recalculate and redistribute pounds of IFQ after the crab season opens. Therefore, if an appeals process continues after issuances of IFQ and the CVC QS or CPC QS holder is not able to provide appropriate evidence to their case, this IFQ could be held in reserve and left unharvested for that year. However, if a CVC QS or CPC QS holder is issued a Notice of C Share QS Inactivity for the withholding of IFQ or revocation of QS, they have no evidence to provide, and their appeal is resolved prior to the issuance of IFQ, those pounds of crab may be able to be redistributed to the other CVC QS and CPC QS holders.

To ensure correct issuance of IFQ and IPQ (including the prescribed distribution of Class B IFQ derived from PQS holder affiliations), NMFS does not process any transfers of QS and PQS from the date applications for IFQ and IPQ are due (June 15) until issuance of those IFQ and IPQ (§ 680.41(b)(1)).

Therefore, for crab fisheries that open in October, a CVC QS or CPC QS holder may not have an opportunity to transfer their QS after they receive an official Notice of C Share QS Inactivity.

#### *IPQ Use Caps and Custom Processing Arrangements*

When the Council recommended the CR Program, it expressed concern about the potential for excessive consolidation of QS and PQS, in which too few persons control all of the QS or PQS and the resulting annual IFQ and IPQ. The Council determined that excessive consolidation could have adverse effects on crab markets, price setting negotiations between harvesters and processors, employment opportunities for harvesting and processing crew, tax revenue to communities in which crab are landed, and other factors considered and described in the Program EIS. To address these concerns, the CR Program limits the amount of QS that a person can hold (*i.e.*, own), the amount of IFQ that a person can use, and the amount of IFQ that can be used onboard a vessel. Similarly, the CR Program limits the amount of PQS that a person can hold, the amount of IPQ that a person can use (*i.e.*, the amount of crab they can process), and the amount of IPQ that can be processed and custom processed at a given facility. Collectively, these limits are commonly referred to as use caps.

There are two use caps that are the subject of this action. In most of the crab fisheries (*i.e.*, EAG, WAG, BSS, WAI, and BBR), § 680.42(b)(1) limits a person to hold no more than 30 percent of the PQS initially issued in the fishery, and to use no more than the amount of IPQ resulting from 30 percent of the initially issued PQS in a given fishery. Four crab fisheries do not have PQS use caps. There is a limited use cap exemption for persons receiving more than 30 percent of the initially issued PQS. Exceeding this cap is prohibited under § 680.7(a)(7), which prohibits an IPQ holder from using more IPQ than the maximum amount of IPQ that may be held by that person. Only two PQS holders in the EAG, WAG, BSS, WAI, and BBR crab fisheries currently have holdings greater than 30 percent of the initially issued PQS based on their initial issuance (see Section 3.3.1.2 of the Analysis). With the exception of these PQS holders, no person may use, *i.e.*, process, an amount of EAG, WAG, BSS, WAI, or BBR IPQ greater than an amount resulting from 30 percent of the initially issued PQS for that crab fishery. The rationale for the IPQ use caps is further described in the Program EIS and the final rule implementing the

CR Program (70 FR 10174, March 2, 2005).

The CR Program is also designed to keep a person from evading the PQS ownership and IPQ use caps through corporate affiliations or other legal relationships. Section 680.42(b)(3)(iv) provides that IPQ use by an entity (other than a CDQ group) is calculated by summing the total amount of IPQ held by that entity and any of its affiliates. “Affiliation” is defined in § 680.2 to mean a relationship between two or more entities, where one entity directly or indirectly owns or controls 10 percent or more of the other entity. Additional elements of the definition of “affiliation” are described in § 680.2.

Under § 680.7(a)(7), in addition to the IPQ crab held by the owner of a processing facility, any IPQ crab that is custom processed at a facility an IPQ holder owns will also be applied against the IPQ use cap of the facility owner. For the purposes of the regulation, an ownership interest in the facility is attributed to all IPQ holders who have a 10 percent or greater direct or indirect ownership interest in the facility. A custom processing arrangement exists when an IPQ holder has a contract with the owners of a processing facility to have their crab processed at that facility and the IPQ holder does not have an ownership interest in that processing facility or is otherwise affiliated with the owners of that processing facility. In custom processing arrangements, the IPQ holder contracts with a processing facility operator to have the IPQ crab processed according to that IPQ holder’s specifications. Custom processing arrangements commonly occur when an IPQ holder does not have an ownership interest in a shoreside processing facility in that region or cannot economically operate a stationary floating crab processor. Thus, custom processing ensures CR Program crab can be processed even when the IPQ holder is remote and unable to process their own IPQ.

Although custom processing would typically be counted in calculating whether an IPQ holder has exceeded a use cap, there are several exemptions for IPQ crab processed under a custom processing arrangement. Shortly after implementation of the CR Program, the Council submitted and NMFS approved Amendment 27 to the Crab FMP (74 FR 25449, May 28, 2009). Amendment 27 was designed to improve operational efficiencies in crab fisheries with historically low TACs or that occur in more remote regions by exempting certain IPQ crab processed under a custom processing arrangement from applying against the IPQ use cap of the

owner of the facility at which IPQ crab are custom processed. For ease of reference, this preamble refers to this exemption as a “custom processing arrangement exemption.”

NMFS refers the reader to the preamble to the final rule implementing Amendment 27 to the Crab FMP for additional information regarding the rationale for custom processing arrangement exemptions in specific BSAI crab fisheries (74 FR 25449, May 28, 2009). Additionally, Amendment 47 added EBT and WBT IPQ crab to the custom processing arrangement exemption, allowing a facility to process more crab without triggering the IPQ use cap (81 FR 92697, December 20, 2016). This exemption was necessary to allow all of the EBT and WBT Class A IFQ crab to be processed at facilities currently processing EBT and WBT crab to prevent potential loss of benefits due to forgone crab harvests.

Section 680.42(b)(7) describes the three requirements that must be met for the custom processing arrangement exemption to apply. First, the custom processing arrangement exemption applies to IPQ issued for BSS with a North Region designation, EAG, EBT, PIK, SMB, WAG processed west of 174° W, and WAI or WBT. As described later in this preamble, the custom processing arrangement exemption does not apply to custom processing arrangements to IPQ issued for: BSS with a South region designation; WAG processed east of 174° W; or BBR.

Second, the custom processing arrangement exemption applies only when there is no affiliation between the person whose IPQ crab is processed at that facility and the IPQ holders who own that facility. As noted earlier, “affiliation” is defined at § 680.2 as a relationship between two or more entities where one directly or indirectly owns or controls 10 percent or more of the other entity. Under § 680.42(b)(7)(i), NMFS does not count IPQ crab that are custom processed at a facility as IPQ crab “used” by the owner of that facility when the person whose IPQ crab is being custom processed is not affiliated with an IPQ holder with 10 percent or greater direct or indirect interest in that facility. In such a case, NMFS credits a person who holds IPQ and who owns the processing facility only with the amount of IPQ crab held by that person, or any affiliates of that person, when calculating IPQ use caps.

In summary, these regulations allow processing facility owners who also hold IPQ to use their facility, or facilities, to establish custom processing arrangements with other IPQ holders to process more crab without exceeding

IPQ use caps. This increases the amount of crab available for processing at the facility and provides a more economically viable processing operation. These regulations allow more than 30 percent of the IPQ for these crab fisheries (*i.e.*, BSS with a North Region designation, EAG, EBT, PIK, SMB, WAG processed west of 174° W, and WAI or WBT) to be processed at a facility when the person whose IPQ crab is being processed is not affiliated with an IPQ holder with 10 percent or greater direct or indirect interest in that facility (§ 680.42(b)(7)).

Third, a custom processing arrangement exemption applies if the facility at which the IPQ crab are custom processed meets location requirements specified at § 680.42(b)(7)(ii)(B). Namely, the facility must be located within the boundaries as established by the State of Alaska of a home rule, first class, or second class city in Alaska in existence on the effective date of regulations implementing Amendment 27 (June 29, 2009). Additionally, the facility must be either (1) a shoreside crab processor or (2) a stationary floating crab processor that is located within a harbor and moored at a dock, docking facility, or other permanent mooring buoy, except for if the stationary floating processor is located within the boundaries of the city of Atka. Additional information on the location requirements for these facilities is found in the preamble to the final rule implementing Amendment 27 (74 FR 25449, May 28, 2009).

Finally, there is a prohibition against corporate entities owning a processing facility, if they are not linked through common ownership to a corporation holding IPQ, from processing more than 30 percent of the IPQ crab at the facility. Section 680.7(a)(8) specifically prohibits a shoreside crab processor or a stationary floating crab processor from receiving more than 30 percent of the IPQ issued for a particular crab fishery. Although this regulation was intended to foreclose an IPQ holder from excluding custom-processed crab from its 30 percent use cap calculation by creative corporate structuring, Amendment 27 exempted custom-processed IPQ crab from the exempt crab fisheries under § 680.42(b)(7)(ii)(A).

Regulations implementing Amendment 27 also created a custom processing exemption for IPQ crab subject to ROFR provisions (§ 680.42(b)(7)(ii)(C) and section 3.2.5 of the Analysis). This custom processing exemption applies to IPQ crab from any of the crab fisheries and is triggered when the IPQ crab is derived from PQS that is subject to a ROFR, is transferred



to another person who is not the initial recipient of the PQS, and who is located within the boundaries of the ECC for which the PQS is, or was, designated in the ROFR.

#### *Facility Use Cap*

In addition to exempting custom processing from counting towards the IPQ use caps, Amendment 27 also prohibited a person from processing more than 60 percent of the IPQ issued for the WAI or EAG crab fisheries in a crab fishing year at a single processing facility east of 174° W. This provision applies to all IPQ crab processed at a shoreside crab processor or stationary floating crab processor, and does not exempt IPQ crab that are delivered under a custom processing arrangement from IPQ use cap calculations. This provision was intended to limit the potential consolidation of IPQ ownership that could occur under the custom processing exemptions and to prevent excessive consolidation of the number of processors available to harvesters, a scenario that is more likely in these fisheries compared to the other fisheries with custom processing exemptions given their historically relatively small TACs compared to other crab fisheries.

#### **Amendment 54 and Need for Action**

Amendment 54 and this proposed rule are intended to provide CVC QS and CPC QS holders greater flexibility in meeting participation requirements and more clarity as to what those requirements are. Amendment 54 would modify participation requirements for all CVC QS and CPC QS holders by instituting the following: (1) restarting the 3- and 4-year rolling timeframes for meeting active participation requirements for all CVC QS and CPC QS holders, (2) authorizing NMFS to reissue QS that was revoked between July 1, 2019 and the effective date of a final rule implementing Amendment 54, (3) standardizing and expanding participation requirements by allowing all CVC QS and CPC QS holders—both initial recipients and new entrants—to participate in 30 days of fishing in any commercial fishery off Alaska including crew on a tender vessel, (4) clarifying that the requirement to participate as crew in at least one crab delivery also includes participating in the fishing trip that results in a crab landing, and (5) clarifying the exemption for CVC QS or CPC QS holders who hold QS exclusively in closed crab fisheries applies to more than just a single closed crab fishery. The purpose of Amendment 54 and the proposed rule is to provide CVC QS and CPC QS holders

greater flexibility in maintaining and meeting active participation requirements for the annual issuance of IFQ and the retention of QS due to low crab abundance and reduced crew opportunities. Since 2020, there have been limited opportunities for crew to participate actively in the crab fisheries because of low crab abundance and because of the impacts of the COVID-19 pandemic.

On July 15, 2022, NMFS issued an emergency rule (87 FR 42390) to provide CVC QS and CPC QS holders 1 additional year to demonstrate active participation in any crab fishery for receiving IFQ or maintaining CVC QS or CPC QS, regardless of participation status in the preceding 4 years. At the same time the Council requested that emergency action, the Council also initiated an analysis of alternatives for changes to CVC QS and CPC QS participation requirements to address the reduced crew opportunities due to the COVID-19 pandemic and unforeseen decline in abundance of crab in the BSS fishery.

As described in section 3.3.1 of the Analysis prepared for Amendment 54, the crab fisheries are currently in a state of flux with historical and recent closures continuing for a number of crab fisheries that have been declared overfished or in the process of rebuilding (Pribilof Islands blue king crab, SMB, and BSS) and are experiencing variable stock health dynamics impacted by environmental change (e.g., BBR, WBT, EBT, and BSS). Only two crab fisheries are considered unaffected by recent declines in abundance (e.g., WAG and EAG).

The Council and NMFS established CVC QS and CPC QS, which are transferrable with participation requirements, as a mechanism to keep a portion of the crab QS in the hands of active fishery participants and provide opportunities for new entrants into the fishery. In developing Amendment 54, the Council recognized that some fishery participants struggled to maintain active participation during the COVID-19 pandemic and recent closures of crab fisheries due to low abundance, but the Council wanted to retain an active participation requirement. This action provides additional flexibility to existing CVC QS and CPC QS and continues to ensure that CVC QS and CPC QS is held and the associated IFQ is used by active fishery participants.

The Council recommended and NMFS supports revisions to the active participation requirements due to the variability in crab stock abundance to allow CVC QS and CPC QS holders

greater flexibility in meeting participation requirements for crab fisheries in order to receive annual allocation of IFQ and retention of QS, while clarifying the active or “at-sea” participation requirement. The Council recommended continued support for designating CVC QS and CPC QS for active participants in the crab fishery and encouraged those who are no longer active in the crab fishery to divest their CVC QS or CPC QS to maintain opportunity for new entrants to obtain QS. Re-implementation of the active participation requirements would provide a new opportunity for CVC QS and CPC QS holders to demonstrate active participation before any QS holder would have their QS revoked. Furthermore, this proposed rule would revise CVC QS and CPC QS holder participation requirements so that the requirements are the same for both initial recipients and new entrants.

#### **Amendment 55 and Need for Action**

Amendment 55 and this proposed rule are intended to improve crab processor efficiency by (1) exempting custom processing activity for the remaining three crab fisheries from processor use caps, and (2) removing the facility use cap. Amendment 55 would exempt custom processing of BSS IPQ with a south region designation, BBR IPQ, and WAG IPQ processed east of 174° W from being counted against a processor IPQ use cap. By exempting custom processing in these three crab fisheries, this action would align the application of the IPQ use caps across all crab fisheries. Further, Amendment 55 would remove the CR Program processor facility use cap applicable to the EAG and WAI fisheries. The EAG and WAI crab fisheries are the only two crab fisheries subject to a cap on the amount of IPQ that can be used as a facility (as distinguished from the IPQ use caps, which are specific to the IPQ holder). Processors in all crab fisheries would continue to be subject to the PQS use caps specified at § 680.42(b)(1).

Amendment 55 and this proposed rule are intended to provide additional flexibility for IPQ holders, processing facilities, and harvesters that participate in the affected crab fisheries. Many IPQ holders do not own a processing facility and rely on custom processing agreements with plants to process crab. Exempting custom processing from counting towards the cap on the amount of crab that an IPQ holder can process provides IPQ holders with a potentially larger market (i.e., additional crab processing facilities) to custom process their crab.

The Council and NMFS recognize that the existing crab processing facility and IPQ use caps were designed and implemented when crab TACs in all crab fisheries were at a much higher level than recent years. Without the proposed action, four unaffiliated crab processing facilities would need to operate to fully process the crab fisheries. This is due to share matching requirements in order to custom process the crab in the BBR, south designated BSS, and WAG east of 174° W. Given the high costs of operating a processing facility in the BSAI, this is not economically viable when very low amounts of crab are available. Amendment 55 would allow for more custom processing opportunities but would also benefit the processing sector overall by not forcing more facilities than are needed to process relatively small TACs.

Amendment 55 would also provide an exemption to a regulatory constraint, which is expected to benefit participants in the BBR and WAG crab fisheries by expanding opportunities to fully harvest allocated QS. The proposed action is expected to improve processing efficiency in the fisheries. Additionally, the proposed action is expected to minimize processing costs and avoid unnecessary duplication by simplifying regulations and reducing resources needed to monitor and enforce the use caps. The proposed action would assist CR Program harvesters by ensuring that all available A share IFQ harvested crab have an opportunity to be processed rather than leaving a portion of the A share IFQ stranded if there are not enough processors operating, which could also benefit communities with processing facilities. Amendment 55 does not impact B share IFQ due to not having share matching requirements and can deliver to any registered crab receiver (RCR).

The 30 percent PQS holding cap specified in regulations at § 680.42(b)(1)(i) would continue to apply to all crab fishery processors and is not modified by the proposed rule. NMFS expects that additional processors would enter the crab fisheries in years where the crab TACs are sufficiently high to make processing activity economically viable.

### **This Proposed Rule**

This proposed rule would make several changes to regulations at 50 CFR part 680 to implement Amendments 54 and 55. Specifically, the following proposed changes are described in the sections below: (1) restart active participation requirements and reissue

QS that NMFS revoked between July 1, 2019 until the final rule implementing Amendment 54 is implemented; (2) standardize participation requirements for all CVC QS and CPC QS holders, both initial issues and new entrants, and expand the 30-day participation requirement to include serving as crew on a tender vessel; (3) clarify crew participation during at least one fishing trip; (4) adjust exemptions for CVC QS and CPC QS holders with QS exclusively in closed crab fisheries; (5) expand exemptions for custom processing from processor use caps; and (6) remove the facility use cap.

### *Restart Active Participation Requirements and Reissue Revoked QS*

This proposed rule revises § 680.40 to modify participation requirements that a CVC QS or CPC QS holder must satisfy to be eligible to receive an annual allocation of IFQ and retain QS. First, under proposed regulations at § 680.40(g)(2) and (m)(1), the timing for when the active participation requirement would apply is restarted. The consecutive 3- and 4-year rolling requirement would apply starting on the date the final rule implementing Amendment 54 goes into effect. A CVC QS or CPC QS holder would then have 3 years to demonstrate participation in order to receive their allocation of IFQ and 4 years to demonstrate participation to retain QS and avoid QS revocation (§ 680.43).

This proposed rule adds a regulation at § 680.40(m)(6) to allow a CVC QS or CPC QS holder to request NMFS to reissue any QS that NMFS revoked from July 1, 2019, through the date a final rule implementing Amendment 54 goes into effect. In order to initiate reissuance of previously revoked CVC QS or CPC QS, NMFS would add a field on the annual application for a crab IFQ permit to be available for two application cycles. This would provide approximately 1 year, to encompass two application cycles (due on June 15 each year), for an individual to request reissuance of their revoked CVC QS or CPC QS.

For example, if this action were approved, and a final rule was effective on June 1, 2024, which is prior to the application deadline of June 15, 2024, for the 2024/2025 crab fishing year, QS that had been revoked between July 1, 2019, and June 1, 2024, would be reissued to those CVC QS and CPC QS holder who applied for reissuance as part of the annual application for crab IFQ between the application period of June 1, 2024, through June 15, 2025. This would provide CVC QS and CPC QS holders two annual crab IFQ

application opportunities to apply for QS reissuance. Active participation requirements would restart for the 2024/2025 crab fishing year and CVC QS and CPC QS holders would not need to demonstrate active participation until the 2027/2028 crab fishing year for annual issuance of IFQ and in 2028/2029 for retention of QS. In order to receive IFQ for the 2027/2028 crab fishing year, a CVC QS or CPC QS holder would have to satisfy the participation requirements during the 2024/2025, 2025/2026, or 2026/2027 crab fishing years. For retention of QS in the subsequent 2028/2029 crab fishing year, a CVC QS or CPC QS holder would have to satisfy participation requirements during the 2024/2025, 2025/2026, 2026/2027, or 2027/2028 crab fishing years.

### *Expand and Standardize Participation Requirements and Allow Tendering*

This proposed rule would modify regulations at § 680.40(g)(2) and (m)(2) to remove the distinction between initial recipients and new entrants. This proposed rule would expand and clarify participation requirements for new entrants to match the requirements of initial recipients where all CVC QS and CPC QS holders can satisfy the participation requirements by either participating in at least one fishing trip with a delivery of crab in any crab fishery or by participating in a combination of crew activity on a fishing vessel or tender vessel in State of Alaska or Federal commercial fisheries in waters off Alaska for at least 30 days during the crab fishing year immediately preceding the crab fishing year for which the CVC QS or CPC QS holder is filing an annual application for a crab IFQ permit.

This proposed rule would also clarify the standard for meeting participation requirements by participating in one crab delivery to also include the fishing trip that results in a delivery of crab in any crab fishery. This proposed rule would modify the definition of “fishing trip” to specify that the definition is also applicable for purposes of participation requirements at § 680.40(g) and (m).

### *Clarify the Closed Fishery Exemption*

This proposed rule would expand the closed fishery participation exemption for CVC QS and CPC QS holders who only hold QS in closed crab fisheries. This exemption would apply when a CVC QS or CPC QS holder holds only QS in one or more crab fisheries and all those crab fisheries are closed to fishing for an entire crab fishing year. In that situation, NMFS will exclude that crab



fishing year when determining if the individual has satisfied the participation requirement for annual issuance of IFQ and revocation of QS. An individual with CVC QS or CPC QS in multiple crab fisheries would have to satisfy the participation requirement for any of the crab fisheries that are open and in which they hold QS.

*Remove IPQ Facility Use Cap for Eastern Aleutian Islands Golden King Crab (EAG) and Western Aleutian Islands Red King Crab (WAI)*

This proposed rule would revoke regulations at § 680.7(a)(9) to remove the cap on shoreside crab processors and stationary floating crab processors east of 174° W from processing more than 60 percent of the IPQ issued in the EAG and WAI crab fisheries. The EAG and WAI crab fisheries are the only two crab fisheries subject to a 60 percent cap on the amount of IPQ that can be used at a facility. This change would remove this restriction that is specific to only the EAG and WAI crab fisheries and help ensure that allocated IFQ would not be stranded if there is not more than one processing facility operating for each of these crab fisheries.

*Exempt Custom Processing From IPQ Use Caps*

This proposed rule would make numerous regulatory changes to exempt custom processing of BSS IPQ with a south-region designation, BBR IPQ, and WAG IPQ processed east of 174° W from the IPQ use caps and would simplify regulations pertaining to facility use caps associated with custom processing.

First, this proposed rule would revise regulations at § 680.42(b) to exempt custom processed crab from the IPQ use cap. Amendment 55 would add the BSS, BBR, and WAG crab fisheries to the list of fisheries in which custom processing is exempt from the IPQ use cap. This would mean that custom processing would only count toward the IPQ use cap under rare situations involving processing outside of specific geographic boundaries. As such, this proposed rule would remove regulations at § 680.42(b)(7) and (8), the circumstances under which custom processing does not count in calculating IPQ use caps, and would revise remaining regulations (included at § 680.42(b)(1) through (9) of this proposed rule) to specify how IPQ use caps shall be calculated under the proposed action.

To simplify the application of the IPQ use cap, this proposed rule would modify the definition of “custom processing” at § 680.2 to specifically define ownership interest consistent

with terminology used by in regulations governing the previous IPQ use caps exemptions at §§ 680.7(a)(7) and 680.42(b)(7). This proposed rule would then insert the term “custom processing” at § 680.42(b) to clarify that IPQ crab that is custom processed, as that term is defined under § 680.2, in any crab fishery would no longer count towards IPQ use caps. This proposed rule also would revise § 680.7(a)(7) to add a reference to § 680.42(b) to indicate where the reader can find the calculation of IPQ crab used for use caps.

This proposed rule would also remove paragraph § 680.7(a)(8) that prohibits using a corporate form to circumvent the IPQ use cap by arranging custom processing. This regulation meant that IPQ crab processed under a custom processing arrangement would not apply against the limit on the maximum amount of IPQ crab that can be processed at a facility in which no IPQ holder has a 10 percent or greater ownership interest. But this proposed action would exempt custom processing in all fisheries from counting towards the IPQ use cap if processed within certain geographic boundaries. Thus, the prohibition at § 680.7(a)(8) is no longer needed and this proposed rule would remove it.

Additionally, this proposed rule would modify § 680.42(b)(1) to specify that a person may not use IPQ in excess of the amount of IPQ resulting from the PQS held by that person unless that person received an initial allocation of PQS exceeding the 30 percent holding cap, is subject to an exemption specified at § 680.4(p), or is used for custom processing at a facility within specific boundaries identified under Amendment 27 as specified at proposed § 680.42(b)(1)(ii)(C)(2).

This proposed rule would also modify § 680.42(b)(2) introductory text and subparagraph (ii) to make technical corrections to the regulations and correctly reference the proposed custom processing exemption.

Regulations at § 680.42(b)(3) through (6) would be reorganized for improved clarity and understanding and included in the proposed regulations as paragraphs § 680.42(b)(3) through (9). The substance of these reorganized regulations at § 680.42(b)(3) through (6) has not been modified, but rather renumbered and edited for clarity.

*Additional Regulatory Changes*

This proposed rule also includes various technical edits and corrections to the regulations to remove typographical errors and improve their clarity.

At § 680.41(j), this proposed rule would correct a typographical error to change the word “and” to “an”.

At § 680.42(a)(3)(i), this proposed rule would strike the phrase “more than”, which is redundant of the phrase “in excess of”, which precedes it.

At § 680.42(b)(1)(i), this proposed rule would replace the phrase “more than” with the phrase “PQS in excess of” to make the language consistent with similar language at § 680.42(b)(1)(ii) that applies to use of IPQ.

At § 680.42(b)(2), this proposed rule would replace the phrase “more than” with the phrase “IPQ in excess of” to make the language consistent with similar language at § 680.42(a).

**Classification**

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendments 54 and 55, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

*Certification Under the Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows: A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained at the beginning of this the proposed rule in the preamble and in the summary section of the preamble. The Magnuson-Stevens Act provides the statutory basis for this rulemaking. No duplicative, overlapping, or conflicting Federal rules have been identified.

The RIRs prepared for Amendments 54 and 55 contain a description of the purpose and need for the proposed actions, the statutory authority for the proposed actions, and a description of the alternatives, including a description of the status quo. Entities that would be directly regulated by this proposed rule include (1) 13 IPQ holders (2) 6 crab processing facilities (3) 160 CVC QS and CPC QS holders.

The proposed regulatory changes to implement Amendment 55 are intended to increase operational efficiency for these entities by removing the facility

use cap for IPQ and/or removing custom processing from the accounting of IPQ caps for certain crab species when processed east of 174° W. Therefore, it is expected that the proposed action would have a beneficial on small entities.

The proposed regulatory changes to implement Amendment 54 are intended to respond to the recent combined impacts of the COVID-19 pandemic and the recent and substantial decline in crab abundance and fishery closures which have substantially reduced opportunities for crew to participate in crab fisheries. The proposed action also addresses concerns about future diminished opportunities for crew if crab stocks remain low. Therefore, the proposed actions are intended to provide more flexibility (relative to status quo) for CVC QS and CPC QS holders when there are diminished opportunities for crew positions on crab fishery vessels. Therefore, this action is expected to benefit CVC QS and CPC QS holders relative to the no action alternative.

The costs and benefits of the proposed action relative to the status quo are described qualitatively and quantitatively. The RIRs also provide information about potential indirect effects and distributional effects of the alternatives, and a description of the net benefits to the Nation under the preferred alternative. Therefore, the RIRs conclude that the proposed actions would result in a net benefit to the Nation.

The analysis was developed through the Council process from 2021 through 2023. The information presented in the analyses was developed through the Council process, with numerous opportunities for individuals and entities that may be affected by the proposed action to provide input about potential economic impacts. CR participants provided extensive input to the Council and its advisory bodies on the anticipated impacts of the proposed action.

The proposed provisions provide flexibility to all directly regulated entities. Therefore, no directly regulated entities are expected to be adversely impacted by the proposed action.

The information provided above supports a determination that the actions would not have a significant economic impact on a substantial number of small entities. Because the proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

### Collection-of-Information Requirements

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This rule revises the existing requirements for the collection of information OMB Control Number 0648-0514 (Alaska Region Crab Permits). Because of a concurrent action for 0648-0514, the revision to that collection of information for this proposed rule will be assigned a temporary control number that will later be merged into 0648-0514.

This collection would be revised to add an option to the Application for Annual Crab IFQ Permit for a CVC QS and CPC QS holder to request reissuance of previously revoked CVC QS or CPC QS. This revision does not change the number of respondents, responses, burden hours, or burden cost for this application. The public reporting burden for the Application for Annual Crab IFQ Permit is estimated to average 2.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding the following: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at <https://www.reginfo.gov/public/do/PRAMain>.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

### List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 1, 2024.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reason set out in the preamble, NMFS proposes to amend 50 CFR part 680 as follows:

### PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

**Authority:** 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

■ 2. Amend § 680.2, by revising the definition for “Custom processing”, adding the definition for “Fishing trip”, and removing the definition for “Fishing trip for purposes of § 680.7(e)(2)” to read as follows:

#### § 680.2 Definitions.

\* \* \* \* \*

*Custom processing* means processing crab in any CR fishery when the IPQ holder does not have a 10 percent or greater direct or indirect ownership interest in the processing facility or affiliation with the processing facility’s owners.

\* \* \* \* \*

*Fishing trip* means, for the purposes of §§ 680.7(e)(2), 680.40(g)(2)(i)(A), and 680.40(m)(2)(i), the period beginning when a vessel operator commences harvesting crab in a crab QS fishery and ending when the vessel operator offloads or transfers any processed or unprocessed crab in that crab QS fishery from that vessel.

\* \* \* \* \*

■ 2. Amend § 680.7 by:

- a. Adding a comma after the first use of “fishery” in paragraph (a)(5);
- b. Revising paragraph (a)(7); and
- c. Removing paragraphs (a)(8) and (9).

The addition and revision read as follows:

#### § 680.7 Prohibitions.

(a) \* \* \*

(7) For an IPQ holder to use more IPQ than the maximum amount of IPQ that may be held by that person under § 680.42(b).

\* \* \* \* \*

■ 3. Amend § 680.40 by revising paragraphs (g)(2), (g)(3) introductory text, (m)(1), (2), and (5), and adding paragraph (m)(6) to read as follows:

**§ 680.40 Crab quota share (QS), processor QS (PQS), individual fishing quota (IFQ), and individual processor quota (IPQ).**

\* \* \* \* \*

(g) \* \* \*

(2) *Eligibility for CVC IFQ and CPC IFQ.* For each crab fishing year after June 30, [date 3 years after date of publication in the **Federal Register**], individuals holding CVC QS or CPC QS permits must meet the participation requirements set forth in paragraph (g)(2)(i) of this section in order to receive CVC IFQ or CPC IFQ, unless the CVC QS permit holder or CPC QS permit holder meets the exemption provided in paragraph (g)(2)(ii) of this section.

(i) During one of the 3 crab fishing years preceding the crab fishing year for which the individual is filing an annual crab IFQ permit application, the individual has participated as crew in at least:

- (A) One fishing trip where a delivery of crab is made in any CR fishery; or
- (B) 30 days of:

(1) Fishing in a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew in State of Alaska and Federal commercial fisheries in waters off Alaska to meet this requirement; or

(2) On a tender vessel operating in support of a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew on a tender vessel in State of Alaska and Federal commercial fisheries in waters off Alaska to meet this requirement.

(C) Individuals may combine their participation specified in paragraphs (g)(2)(i)(B)(1) and (2) of this section to meet this requirement.

(D) If the individual holds CVC QS or CPC QS in one or more CR fisheries and all CR crab fisheries for which the QS holder holds QS are closed, NMFS will exclude that crab fishing year when determining whether the individual has satisfied the participation requirements specified in paragraph (g)(2)(i) of this section.

(ii) All of the CVC QS or CPC QS permits held by the individual were acquired using the eligibility criteria in § 680.41(c)(1)(vii)(B) or reissued under paragraph (m)(6) of this section and the individual has held those CVC QS or CPC QS permits for less than 3 crab fishing years.

(3) *Withholding of CVC IFQ or CPC IFQ.* Beginning July 1, [date 3 years after date of publication in the **Federal Register**], the Regional Administrator will withhold issuance of CVC IFQ or CPC IFQ to an individual who has not met the participation requirements set forth in paragraph (g)(2) of this section.

The Regional Administrator will withhold an individual's CVC IFQ or CPC IFQ in accordance with the procedures set forth in paragraphs (g)(3)(i) and (ii) of this section.

\* \* \* \* \*

(m) \* \* \*

(1) Beginning July 1, [date 4 years after date of publication in the **Federal Register**], and each crab fishing year thereafter, individuals allocated CVC QS or CPC QS must meet the participation requirements set forth in paragraph (m)(2) of this section in order to retain their CVC QS or CPC QS unless the CVC QS holder or CPC QS holder meets the exemption provided in paragraph (m)(5) of this section.

(2) During one of the 4 crab fishing years preceding the crab fishing year for which the individual is filing an annual crab IFQ permit application, the individual has participated as crew in at least:

- (i) One fishing trip where a delivery of crab is made in any CR fishery; or
- (ii) 30 days of:

(A) Fishing in a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew in State and Federal commercial fisheries to meet this requirement; or

(B) On a tender vessel operating in support of a commercial fishery managed by the State of Alaska or in a Federal commercial fishery in the EEZ off Alaska. Individuals may combine their participation as crew on a tender vessel in State and Federal commercial fisheries to meet this requirement.

(iii) Individuals may combine participation specified in paragraph (m)(2)(ii)(A) and paragraph (m)(2)(ii)(B) of this section to meet this requirement.

(iv) If the individual holds CVC QS or CPC QS in one or more CR crab fisheries and all CR crab fisheries for which the QS holder holds QS are closed, NMFS will exclude that crab fishing year when determining whether the individual has satisfied the participation requirement specified in paragraph (m)(2) of this section.

\* \* \* \* \*

(5) All of the CVC QS or CPC QS permits held by the individual were acquired using the eligibility criteria in § 680.41(c)(1)(vii)(B) or reissued under paragraph (m)(6) of this section, and the person has held those CVC QS or CPC QS permits for less than 4 crab fishing years.

(6) For CVC QS or CPC QS revoked by NMFS under regulations paragraph (m)(2) of this section from July 1, 2019, through [effective date of final rule], an

individual may apply for reissuance of QS with the individual's annual crab IFQ permit application from [effective date of final rule] through June 15, [1-year after publication of final rule].

\* \* \* \* \*

#### § 680.41 [Amended]

■ 4. Amend § 680.41 by removing the word “and” and adding in its place the word “an” in the paragraph heading for paragraph (j).

■ 5. Amend § 680.42 by:

- a. Removing the phrase “more than” in paragraph (a)(3)(i);
- b. Removing the phrase “more than” and adding in its place the phrase “PQS in excess of” in paragraph (b)(1)(i);
- c. Revising paragraphs (b)(1)(ii)(A) and (B), adding paragraph (b)(1)(ii)(C), and revising paragraphs (b)(2) introductory text, (b)(2)(ii), and (b)(3);
- d. Redesignating paragraphs (b)(4) through (6) as paragraphs (b)(7) through (9);

■ e. Adding new paragraphs (b)(4) through (6);

■ f. Removing the reference to “(b)(4)(iv)” and adding in its place “(b)(7)(iv)” in newly redesignated paragraph (b)(7); and

■ g. Removing references to “(b)(4)” and adding in their place “(b)(7)” in two instances in newly redesignated paragraphs (b)(7) and (8).

The revisions and additions read as follows:

#### § 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) Derived from PQS that was received by that person in the initial allocation of PQS for that crab QS fishery; or

(B) Subject to an exemption for that IPQ pursuant to § 680.4(p); or

(C) Used for custom processing at a facility that is:

(1) Any shoreside crab processor located within the boundaries of a home rule, first class, or second class city in the State of Alaska in existence on June 29, 2009; or

(2) Any stationary floating crab processor that is:

(i) Located within the boundaries of a home rule, first class, or second class city in the State of Alaska in existence on June 29, 2009;

(ii) Moored at a dock, docking facility, or at a permanent mooring buoy, unless that stationary floating crab processor is located within the boundaries of the city of Atka in which case that stationary floating crab processor is not required to

be moored at a dock, docking facility, or at a permanent mooring buoy; and

(iii) Located within a harbor, unless that stationary floating crab processor is located within the boundaries of the city of Atka on June 29, 2009, in which case that stationary floating crab processor is not required to be located within a harbor.

(2) A person may not use IPQ in excess of 60 percent of the IPQ issued in the BSS crab QS fishery with a North region designation during a crab fishing year. Except that a person who:

\* \* \* \* \*

(ii) Has a 10 percent or greater direct or indirect ownership interest in the shoreside crab processor or stationary floating crab processor where that IPQ crab is processed will not be considered to use any IPQ in the BSS crab QS fishery with a North region designation if that IPQ is custom processed at a facility consistent with paragraph (b)(1)(ii)(C) of this section.

(3) A non-individual entity holding PQS will be required to provide, on an annual basis, a list of persons with an

ownership interest in the non-individual entity. This ownership list shall be provided to the individual level, will include the percentage of ownership held by each owner, and must be submitted annually with the complete application for a crab IFQ/IPQ permit.

(4) A person will be considered to be a holder of PQS for purposes of applying the PQS use caps in this paragraph if that person:

(i) Is the sole proprietor of an entity that holds PQS; or

(ii) Is not a CDQ group and directly or indirectly owns a 10 percent or greater interest in an entity that holds PQS.

(5) A person that is not a CDQ group and holds PQS is limited to a PQS use cap that is calculated based on the sum of all PQS held by that PQS holder and all PQS held by any affiliate of the PQS holder. A person that is not a CDQ group and holds IPQ is limited to an IPQ use cap that is calculated based on the sum of all IPQ held by that IPQ holder and all IPQ held by any affiliate of the IPQ holder.

(6) A CDQ group that holds PQS is limited to a PQS use cap that is calculated based on the sum of all PQS held, individually or collectively, by that CDQ group. A CDQ group that holds IPQ is limited to an IPQ use cap that is calculated based on the sum of all IPQ held, individually or collectively, by that CDQ group.

\* \* \* \* \*

■ 6. In § 680.43, revise paragraph (a) to read as follows:

**§ 680.43 Revocation of CVC and CPC QS.**

(a) Beginning July 1, [*date 4 years after date of publication in the **Federal Register***], the Regional Administrator will revoke all CVC QS and CPC QS held by an individual who has not met the participation requirements set forth in § 680.40(m). The Regional Administrator will revoke an individual's CVC QS or CPC QS in accordance with the procedures set forth in this section.

\* \* \* \* \*

[FR Doc. 2024-04733 Filed 3-6-24; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register  
Vol. 89, No. 46  
Thursday, March 7, 2024

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FGIS–23–0083]

2024 Rates for Grain Inspection Services Under the United States Grain Standards Act

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Agricultural Marketing Service (AMS) is announcing the 2024 rates it will charge for official inspection and weighing services, supervision of official inspection and weighing services, and miscellaneous fees for other services performed under the United States Grain Standards Act, as amended. This action publishes the annual review of fees and the resulting fees.

**DATES:** Applicable April 1, 2024.

**ADDRESSES:** Prospective customers can find the fee scheduled posted on the Agency’s public website: <https://www.ams.usda.gov/about-ams/fgis-program-directives>.

**FOR FURTHER INFORMATION CONTACT:** Denise Ruggles, FGIS Executive Program Analyst, USDA AMS; Telephone: 816–702–3897, or Email: [denise.m.ruggles@usda.gov](mailto:denise.m.ruggles@usda.gov).

**SUPPLEMENTARY INFORMATION:** The United States Grain Standards Act (USGSA) provides the Secretary of

Agriculture with the authority to charge and collect reasonable fees to cover the costs of performing official services, as well as those associated with managing the program. The grain inspection regulations require that the Federal Grain Inspection Service (FGIS) conducts annual fee reviews of national and local administrative costs related to grain volume/tonnage inspected (7 CFR 800.71).

Overview of Schedule A (Official Inspection and Weighing Services) Fee Calculations

The USGSA and its implementing regulations (7 CFR 800.71(b)(3)(i) and (ii)) require FGIS to maintain an operating reserve of not less than 3 and not more than 6 months’ expenses. To comply with this requirement, FGIS conducts an annual review of its tonnage fees and operating reserves. Tonnage fees are calculated according to 7 CFR 800.71(b)(1). After calculating the tonnage fees, FGIS reviews the amount of funds in the operating reserve at the end of the fiscal year (FY) (FY2023 in this case) to ensure that it has 4½ months of operating expenses. FGIS uses 4.5 months of expenses as its target amount because section 800.71(b)(3) of the regulations specifies 4.5 months as the trigger for whether FGIS should make adjustments to its fees. If the operating reserve has more—or less—than 4½ months of operating expenses, then FGIS must adjust all Schedule A fees. For each \$1,000,000, rounded down, that the operating reserve varies from the target of 4½ months, FGIS will adjust all Schedule A fees by 2 percent. If the operating reserve exceeds the target, all Schedule A fees will be reduced. If the operating reserve does not meet the target, all Schedule A fees will be increased. The maximum annual increase or decrease in fees is 5 percent (7 CFR 800.71(b)(3)(i)–(ii)).

Tonnage fees for the 5-year rolling average tonnage were calculated on the previous 5 fiscal years (2019, 2020, 2021, 2022, and 2023). Tonnage fees consist of the national tonnage fee and local tonnage fee and are calculated and rounded to the nearest \$0.001 per metric ton.

*Calculation of national tonnage fee.* The national tonnage fee is the national program administrative costs for the previous fiscal year divided by the average yearly tons of export grain officially inspected and/or weighed by delegated States and designated agencies, excluding land carrier shipments to Canada and Mexico, and outbound grain officially inspected and/or weighed by FGIS during the previous 5 fiscal years.

The FY2024 national tonnage fee, prior to the operating reserve review, is \$0.054 per metric ton. The calculation of this fee is based on FY2023 national administrative costs of \$6,250,062, divided by the 5-year rolling tonnage average of 114,983,338 metric tons.

TABLE 1—NATIONAL TONNAGE INSPECTED

| Fiscal year                  | Metric tons |
|------------------------------|-------------|
| 2019 .....                   | 107,896,235 |
| 2020 .....                   | 110,090,771 |
| 2021 .....                   | 136,574,792 |
| 2022 .....                   | 123,745,530 |
| 2023 .....                   | 96,609,360  |
| 5-year Rolling Average ..... | 114,983,338 |

*Calculation of local tonnage fee.* The local tonnage fee is the field office administrative costs for the previous fiscal year divided by the average yearly tons of outbound grain officially inspected and/or weighed by FGIS field offices during the previous 5 fiscal years.

TABLE 2—LOCAL TONNAGE INSPECTED BY FIELD OFFICE

| Field office            | FY2019     | FY2020     | FY2021     | FY2022     | FY2023     | 5-year rolling average |
|-------------------------|------------|------------|------------|------------|------------|------------------------|
| New Orleans .....       | 57,807,378 | 59,768,303 | 72,482,289 | 68,880,711 | 56,312,940 | 63,050,324             |
| League City .....       | 7,939,994  | 9,318,595  | 12,877,525 | 8,335,121  | 5,824,829  | 8,859,213              |
| Pacific Northwest ..... | 2,530,648  | 3,331,672  | 4,136,482  | 2,720,001  | 1,754,725  | 2,894,706              |
| Toledo .....            | 1,597,584  | 948,840    | 1,154,856  | 1,191,938  | 790,400    | 1,136,724              |

The local field office administrative costs for FY2023 and the FY2024 calculated local field office tonnage fee, prior to the operating reserve review, are as follows:

TABLE 3—LOCAL ADMINISTRATIVE COSTS AND CALCULATED LOCAL TONNAGE FEE BY FIELD OFFICE

| Field office            | FY2023 local administrative costs | Calculated FY 2024 local tonnage fee |
|-------------------------|-----------------------------------|--------------------------------------|
| New Orleans .....       | \$715,554                         | \$0.011                              |
| League City .....       | 672,847                           | 0.076                                |
| Pacific Northwest ..... | 374,859                           | 0.129                                |
| Toledo .....            | 167,053                           | 0.147                                |

*Operating reserve.* In order to maintain an operating reserve that is not less than 3 and not more than 6 months of operating expenses, FGIS reviewed the value of the operating reserve at the end of FY2023 to ensure that an operating reserve equivalent to 4½ months of operating expenses is maintained.

The program operating reserve at the end of FY2023 was (\$504,270), with a monthly operating expense of \$2,645,846. The target of 4.5 months of operating reserve is \$11,906,307. Therefore, the operating reserve is \$12,410,578 below the 4.5 months target level. Under the regulations, for each

\$1,000,000, rounded down, below the target level, all Schedule A fees must be increased by 2 percent. The operating reserve is \$12.4 million below the target level, indicating a larger increase in fees would be required to fully restore the operating reserve. However, section 800.71(b)(3)(i) limits annual fee changes to 5 percent, which will not increase the operating reserve to the minimum statutory amount of 3 times the monthly operating expenses. In addition to this fee adjustment, and pursuant to section 800.71(c) of the regulations and section 7(j)(4) of the USGSA, FGIS is reviewing all fees to ensure they reflect the true

costs of providing and supervising official service.

As described in this notice, FGIS is increasing all the 2023 Schedule A fees for service in Schedule A in § 800.71(a)(1) by 5 percent for FY2024, including calculated FY2024 national and local tonnage fees. All Schedule A fees for service are rounded to the nearest \$0.10, except for fees based on tonnage or hundredweight. Schedule A fees will be outlined in FGIS Directive 9180.74 and published on the agency’s public website. For example, national and local tonnage fees are adjusted as follows:

TABLE 4—NATIONAL TONNAGE FEE WITH OPERATING RESERVE ADJUSTMENT AND FY2023 FEE

| Fee description                                       | FY2024 calculation with operating reserve adjustment    | Calculated FY2024 tonnage fee | FY2023 tonnage fee |
|---|---|-------------------------------|--------------------|
| National (Delegated States/Designated Agencies) ..... | \$0.054 plus 5% increase (\$0.003) equals \$0.057 ..... | \$0.057                       | \$0.033            |

TABLE 5—FIELD OFFICE TONNAGE FEE WITH OPERATING RESERVE ADJUSTMENT AND FY2023 FEE

| Fee description         | FY2024 calculation with operating reserve adjustment         | Calculated FY2024 tonnage fee (national + local) | FY2023 tonnage fee |
|-------------------------|--|--|--------------------|
| New Orleans .....       | local fee \$0.011 plus 5% increase (\$0.001) equals \$0.012. | \$0.069  | \$0.055            |
| League City .....       | local fee \$0.076 plus 5% increase (\$0.004) equals \$0.080. | 0.137  | 0.108              |
| Pacific Northwest ..... | local fee \$0.129 plus 5% increase (\$0.006) equals \$0.135. | 0.192  | 0.158              |
| Toledo .....            | local fee \$0.147 plus 5% increase (\$0.007) equals \$0.154. | 0.211  | 0.310              |

All Schedule A fees for service are rounded to the nearest \$0.10, except for fees based on tonnage or hundredweight. Schedule A fees will be outlined in FGIS Directive 9180.74 and published on the agency’s public website.

**Overview of Schedule B Fees (Fees for Supervision of Official Inspection and Weighing Services Performed by Delegated States and Designated Agencies in the United States)**

FGIS calculates the supervision tonnage fee using the prior year’s actual costs and the 5-year average tonnage of domestic U.S. grain shipments inspected, weighed, or both, including

land carrier shipments to Canada and Mexico.

*Operating reserve adjustment.* In order to maintain an operating reserve of not less than 3 and not more than 6 months, FGIS reviewed the value of the operating reserve at the end of FY2023 to ensure that an operating reserve of 6 months is maintained.

The operating reserve adjustment is the difference between FY2023 ending reserves and the operating reserve threshold, which is equivalent to 6 months of supervisory costs. FY2023 supervision costs were \$1,186,689. The operating reserve threshold for FY2024 is calculated by dividing FY2023 supervision costs by 2 ( $\$1,186,689/2 = \$593,345$ ). The FY2023 operating reserve ending balance (\$295,535) is less than the operating reserve threshold (\$593,345) by \$297,810. Therefore, the operating reserve adjustment for calendar year 2024 is \$297,810.

**Supervision tonnage fee.** FGIS adds the total prior year supervision costs and the operating reserve adjustment, then divides the result by the previous 5-year average tonnage. If the calculated fee is zero or a negative value, FGIS will suspend collection of supervision tonnage fees for the next calendar year.

The supervision tonnage fee for calendar year 2024 is \$0.007 per ton. The calculation, based on FY2023 supervision costs of \$1,186,689, is \$1,186,689 plus the operating reserve adjustment of \$297,810, which equals \$1,484,499, divided by a 5-year average tonnage of 219,219,620, which equals \$0.007 per ton.

TABLE 6—TONNAGE SUPERVISED

| Fiscal year                  | Metric tons |
|------------------------------|-------------|
| 2019 .....                   | 206,693,881 |
| 2020 .....                   | 237,649,430 |
| 2021 .....                   | 232,738,700 |
| 2022 .....                   | 225,570,903 |
| 2023 .....                   | 193,445,187 |
| 5-year Rolling Average ..... | 219,219,620 |

Therefore, for 2024, FGIS will assess a supervision tonnage fee of \$0.007 per ton on domestic shipments officially inspected and/or weighed, including land carrier shipments to Canada and Mexico, performed by delegated States and/or designated agencies on or after April 1, 2024. The Schedule B fee will be published in FGIS Directive 9180.74 and on the agency's public website.

#### 7 CFR 800.71(d) Miscellaneous Fees for Other Services Calculations

**Registration certificates and renewals.** FGIS calculates the application fee by multiplying the Schedule A non-contract hourly rate (Table 1 in § 800.71(a)) by a quantity of five. The resulting fee is expected to cover FGIS personnel costs to review applications, fee publication expenses, and administrative expenses. The Schedule A non-contract hourly rate is \$73. Thus, the application fee for 2024 will be \$73 times 5, or \$365. The fee will be published on the agency's public

website after **Federal Register** publication.

**Designation amendments.** FGIS calculates the rate using the **Federal Register** publication rate for three columns, plus one hour of noncontract hourly rate from § 800.71(a) Table 1 of Schedule A. The fee covers FGIS personnel costs, administrative expenses, and costs for publishing notices regarding the designation of official service providers in the **Federal Register**. The **Federal Register** publication rate is \$151 per column, and the Schedule A non-contract hourly rate is \$73. FGIS calculates the fee will be \$526 for calendar year 2024. The fee will be published on the agency's public website after **Federal Register** publication.

**Authority:** 7 U.S.C. 71–87k.

**Melissa Bailey,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2024–04838 Filed 3–6–24; 8:45 am]

**BILLING CODE 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 April 8, 2024 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](http://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.

### Animal and Plant Health Inspection Service

**Title:** Bees and Related Articles.

**OMB Control Number:** 0579–0207.

**Summary of Collection:** The Plant Protection Act (APA) (7 U.S.C. 7701 *et seq.*), authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States.

Under the Honeybee Act (7 U.S.C. 281–286), the Secretary is authorized to prohibit or restrict the importation of honeybees and honeybee semen to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species and subspecies of honeybees. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ), is responsible for implementing the intent of these Acts, and does so through the enforcement of its pollinator and bee regulations.

**Need and Use of the Information:** APHIS collects information from a variety of individuals who are involved in breeding, exporting, importing, and containing bees and related articles. The information APHIS collects serves as the supporting documentation needed to issue required PPQ forms and documents that allow importation of bees and related articles or authorizes the release of bees. This documentation is vital to helping APHIS ensure that exotic bee diseases and parasites, and undesirable species and subspecies of honeybees, do not spread into or within the United States. Without the information, APHIS could not verify that imported bees and related articles do not present a significant risk of introducing exotic bee disease, parasites, and undesirable species and subspecies of honeybees.

**Description of Respondents:** Businesses or other-for-profit; Foreign Federal Government.

**Number of Respondents:** 8.

*Frequency of Responses:*  
Recordkeeping; Reporting: On occasion.  
*Total Burden Hours:* 64.

**Rachelle Ragland-Greene,**  
*Acting Departmental Information Collection  
Clearance Officer.*

[FR Doc. 2024-04865 Filed 3-6-24; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Foreign Agricultural Service

#### Fiscal Year 2024 Raw Cane Sugar Tariff-Rate Quota Increase

**AGENCY:** Foreign Agricultural Service,  
U.S. Department of Agriculture.

**ACTION:** Notice.

**SUMMARY:** The Foreign Agricultural Service is providing notice of an increase in the fiscal year (FY) 2024 raw cane sugar tariff-rate quota (TRQ) of 125,000 metric tons raw value (MTRV).

**DATES:** This notice is applicable on March 7, 2024.

**FOR FURTHER INFORMATION CONTACT:** Souleymane Diaby, Multilateral Affairs Division, Trade Policy and Geographic Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1070, 1400 Independence Avenue SW, Washington, DC 20250-1070; by telephone (202) 720-2916; or by email [Souleymane.Diaby@usda.gov](mailto:Souleymane.Diaby@usda.gov).

**SUPPLEMENTARY INFORMATION:** On July 5, 2023, the Foreign Agricultural Service established the FY 2024 TRQ for raw cane sugar at 1,117,195 MTRV, the minimum to which the United States is committed under the World Trade Organization (WTO) Uruguay Round Agreements. Pursuant to Additional U.S. Note 5 to Chapter 17 of the U.S. Harmonized Tariff Schedule (HTS), the Secretary has authority to modify the raw and refined sugar WTO TRQs. The Secretary's authority under Additional U.S. Note 5 has been delegated to the Under Secretary for Trade and Foreign Agricultural Affairs (7 CFR 2.26). The Under Secretary has subsequently delegated this authority to the Administrator, Foreign Agricultural Service (7 CFR 2.601). The Foreign Agricultural Service gives notice today of an increase in the quantity of raw cane sugar eligible to enter at the lower rate of duty during FY 2024 by 125,000 MTRV. The conversion factor is 1 metric ton raw value equals 1.10231125 short tons raw value. With this increase, the overall FY 2024 raw sugar TRQ is now 1,242,195 MTRV. Raw cane sugar under this quota must be accompanied by a certificate for quota eligibility. The

Office of the U.S. Trade Representative (USTR) will allocate this increase among supplying countries and customs areas.

These actions are being taken after a determination that additional supplies of raw cane sugar are required in the U.S. market. USDA will closely monitor stocks, consumption, imports and all sugar market and program variables on an ongoing basis and may make further program adjustments during FY 2024 if needed.

**Daniel Whitley,**

*Administrator, Foreign Agricultural Service.*

[FR Doc. 2024-04903 Filed 3-6-24; 8:45 am]

**BILLING CODE 3410-10-P**

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

#### Notice of Intent To Seek Approval To Reinstate an Information Collection

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek reinstatement of an information collection, the 2024 Tenure, Ownership and Transition of Agricultural Land (TOTAL) survey.

**DATES:** Comments on this notice must be received by May 6, 2024 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535-0240, 2024 TOTAL, by any of the following methods:

- *Email:* [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov). Include docket number above in the subject line of the message.
- *Fax:* (202) 720-6396.
- *Mail:* Mail any paper, disk, or CD-ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.
- *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.

**FOR FURTHER INFORMATION CONTACT:**

Joseph L. Parsons, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720-4333. Copies of

this information collection and related instructions can be obtained without charge from Richard Hopper, NASS Clearance Officer, at (202) 720-2206.

**SUPPLEMENTARY INFORMATION:**

*Title:* 2024 Tenure, Ownership and Transition of Agricultural Land (TOTAL) Survey.

*OMB Control Number:* 0535-0240.

*Type of Request:* Intent to Seek Reinstatement of an Information Collection.

*Abstract:* The National Agricultural Statistics Service (NASS) of the United States Department of Agriculture (USDA) will request approval from the Office of Management and Budget (OMB) for the 2024 Tenure, Ownership and Transition of Agricultural Land (TOTAL) surveys to be conducted as follow-on surveys to the 2022 Census of Agriculture and are authorized by the Food, Conservation, and Energy Act of 2008 as amended.

The 2024 TOTAL surveys will be conducted in 2025, referencing the calendar year of 2024. In 2025 the Agricultural Resource Management Survey (ARMS) Phase 3 (OMB # 0535-0275) will be suspended for a period of one year. The scope of the TOTAL survey is greater than that of the ARMS 3 survey. To maintain the ARMS 3 data series, data will be gleaned from the TOTAL surveys to replace the 2024 ARMS 3 data collection.

The TOTAL survey will be conducted in two phases. The first phase will be the creation of a list of land owners who rent out land for agricultural purposes. These landlords will be excluded from the sample if they are also active farm or ranch operators as these entities are part of the phase II version 1 sampling population discussed below. The area segments that are used during the June Area Survey (OMB # 0535-0213) will be used as the target areas. NASS will compare the land inside these segments with land ownership data from the Farm Services Agency (FSA) along with property tax information purchased from CoreLogic (a privately owned company). After the removal of any duplication within this list NASS will have the target sample for the Landlord only version of the survey which will be conducted in Phase II. The current NASS List Frame of known farmers and ranchers will be used to create the sample for the Operator version of the survey. No list building will be conducted in Phase I for the operator questionnaire.

The second phase of the survey will include data collection and reporting using two versions of the TOTAL questionnaires. Version 1 of the TOTAL



survey will target farm and ranch operators in all 50 States. The sample will be drawn from a list of all known farming operations that sold at least \$1,000 in agricultural products in 2024. The stratified sample will be representative of the farm operator population. The sample will be large enough to publish State level data for the 25 largest agricultural producing States based on value of sales. These 25 core States account for a significant amount of the total value of agricultural products produced in the three-year period of 2020–2022. Version 2 of the TOTAL survey will target individuals who own and rent out farm land in all 50 States. Individuals who are both farm operators and landlords will be excluded from the Version 2 sample since they are included in the Version 1 sample population. The Version 2 population should be large enough to publish State level data for the 25 core States. The remaining 25 States that will be included in the survey will have their data combined in the all other States category, so that US level estimates can be published.

Data collection for both Versions should begin around January 1, 2025, using 2024 as the reference period. A final report is targeted to be published in October 2025.

**Authority:** The Tenure, Ownership and Transition of Agricultural Land (TOTAL) surveys are required by law under the “Census of Agriculture Act of 1997,” Public Law 105–113, 7 U.S.C. 2204(g) as amended. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, title III of Public Law 115–435, codified in 44 U.S.C. ch. 35. CIPSEA supports NASS’s pledge of confidentiality to all respondents and facilitates the agency’s efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA. NASS uses the information only for statistical

purposes and publishes only tabulated total data.

These data are used by Congress when developing, updating, or changing farm programs. These data will also be used to produce estimates of sector-wide production expenditures and other components of income that are used in constructing the estimates of income and value-added which are transmitted to the U.S. Department of Commerce, Bureau of Economic Analysis, by the USDA Economic Research Service (ERS) for use in constructing economy-wide estimates of Gross Domestic Product. The data will also be used to construct demographic data on the owners and operators of farm land in the United States and their potential transition strategies.

Many national and state programs are designed or allocated based on these data. Farm operators, landlords, and financial institutions rely on these data to make informed business decisions when selling or renting land, applying for business loans, or making decisions on expanding or diversifying their operations.

**Estimate of Burden:** Public reporting burden for Version 1 (farm operators) is estimated to average 100 minutes per response. Public reporting burden for Version 2 (landlords only) is estimated to average 30 minutes per response. Multiple data collection modes will be incorporated to help minimize data collection costs. The questionnaires will be available on the internet to the targeted sample. NASS will mail the questionnaires to the respondents at least twice and may use autodial or a postcard reminder, before attempting phone or personal interviews to collect the data.

**Respondents:** Version 1—farm operators; Version 2 landlords who rent out farm land but do not operate farms.

**Estimated Number of Respondents:** 45,600 farm or ranch operators and 44,000 landlords who do not operate farms or ranches.

**Estimated Total Annual Burden on Respondents:** 114,500 hours. In order to minimize data collection costs, NASS will attempt to collect data by utilizing an internet version of the questionnaire as well as the U.S. Postal Service. NASS will then attempt to collect the data from non-respondents by either phone or personal enumeration. With the initial mailing, respondents will be provided with instructions on how to access the internet and complete the questionnaire on line.

The primary objectives of the National Agricultural Statistics Service are to prepare and issue State and national estimates of crop production, livestock

production, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys, which includes the TOTAL surveys.

**Comments:** Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (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, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, February 14, 2024.

**Joseph L. Parsons,**

*Associate Administrator.*

[FR Doc. 2024–04832 Filed 3–6–24; 8:45 am]

**BILLING CODE 3410–20–P**

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

#### Notice of Intent To Seek Approval To Reinstate an Information Collection

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek reinstatement of an information collection, the Census of Horticultural Specialties. Response to this survey will be mandatory.

**DATES:** Comments on this notice must be received by May 6, 2024 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535–0236, 2024 Census of Horticultural Specialties, by any of the following methods:

- **Email:** [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov). Include docket number above in the subject line of the message.
- **Efax:** (855) 838–6382.

• *Mail:* Mail any paper, disk, or CD-ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

• *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

**FOR FURTHER INFORMATION CONTACT:**

Joseph L. Parsons, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS Clearance Officer, at (202) 720–2206.

**SUPPLEMENTARY INFORMATION:**

*Title:* 2024 Census of Horticultural Specialties.

*OMB Control Number:* 0535–0236.

*Type of Request:* Intent to Seek Reinstatement of an Information Collection.

*Abstract:* The National Agricultural Statistics Service (NASS) of the United States Department of Agriculture (USDA) will request approval from the Office of Management and Budget (OMB) for the 2024 Census of Horticultural Specialties survey to be conducted as a follow-on survey from the 2022 Census of Agriculture and is authorized by the Food, Conservation, and Energy Act of 2008 (title X—Horticulture and Organic Agriculture) as amended.

The 2024 Census of Horticultural Specialties will use as a sampling universe; every respondent on the 2022 Census of Agriculture who reported production and sales of \$10,000 or more of horticultural specialty crops, and is still in business in 2024. In addition, NASS also plans to contact all new operations that have begun producing horticultural specialty products since the completion of the 2022 Census of Agriculture. Data collection will begin around January 1, 2025, for production and sales data for 2024. A final report will be published around December 2025. Data will be published at both the US and State levels where possible.

*Authority:* The census of horticulture is required by law under the “Census of Agriculture Act of 1997,” Public Law 105–113, 7 U.S.C. 2204(g) as amended. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of

1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, title III of Public Law 115–435, codified in 44 U.S.C. ch. 35. CIPSEA supports NASS’s pledge of confidentiality to all respondents and facilitates the agency’s efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA. NASS uses the information only for statistical purposes and publishes only tabulated total data.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 60 minutes per response.

*Respondents:* Producers of horticultural specialty crops.

*Estimated Number of Respondents:* 40,000.

*Estimated Total Annual Burden on Respondents:* 52,000 hours.

*Comments:* Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (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, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 4, 2024.

**Joseph L. Parsons,**

*Associate Administrator.*

[FR Doc. 2024–04849 Filed 3–6–24; 8:45 am]

**BILLING CODE 3410–20–P**

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

#### Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Labor Survey. Revision to burden hours will be needed due to changes in the size of the target population, sampling design, number of mailings, and/or questionnaire length.

**DATES:** Comments on this notice must be received by May 6, 2024 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535–0109, by any of the following methods:

• *Email:* [OMBOfficer@nass.usda.gov](mailto:OMBOfficer@nass.usda.gov). Include docket number above in the subject line of the message.

• *eFax:* (855) 838–6382.

• *Mail:* Mail any paper, disk, or CD-ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

• *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

**FOR FURTHER INFORMATION CONTACT:**

Joseph L. Parsons, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS—OMB Clearance Officer, at (202) 720–2206 or at [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Agricultural Labor Survey.

*OMB Control Number:* 0535–0109.

*Expiration Date of Approval:* September 30, 2024.

*Type of Request:* Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

*Abstract:* The primary objective of the National Agricultural Statistics Service is to prepare and issue State and

national estimates of crop and livestock production, disposition, and prices. The Agricultural Labor Survey provides quarterly statistics on the number of agricultural workers, hours worked, and wage rates. Number of workers and hours worked are used to estimate agricultural productivity; wage rates are used in the administration of the H-2A Program and for setting Adverse Effect Wage Rates. Survey data are also used to carry out provisions of the Agricultural Adjustment Act. NASS intends to request that the survey be approved for another 3 years.

**Authority:** These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, title III of Public Law 115-435, codified in 44 U.S.C. ch. 35. CIPSEA supports NASS's pledge of confidentiality to all respondents and facilitates the agency's efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA. NASS uses the information only for statistical purposes and publishes only tabulated total data.

**Estimate of Burden:** This information collection consists of three individual surveys. In April, NASS will collect data for the January and April quarters and in October, NASS will collect data for both the July and October quarters. Following these two surveys NASS will re-contact approximately 500 operators to conduct quality control surveys to help insure the quality of the data collected. NASS also plans to conduct some cognitive testing during this renewal period. The public reporting burden for this information collection is estimated to average 5 minutes for the quality control surveys and 30 minutes per response in April and October.

**Respondents:** Farms and businesses.

**Estimated Number of Respondents:** 18,000.

**Estimated Total Annual Burden on Respondents:** 21,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS Clearance Officer, at (202) 720-2206.

**Comments:** Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (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, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, March 4, 2024.

**Joseph L. Parsons,**

*Associate Administrator.*

[FR Doc. 2024-04850 Filed 3-6-24; 8:45 am]

**BILLING CODE 3410-20-P**

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

#### Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the List Sampling Frame Surveys. Revision to burden hours will be needed due to 1) The survey not being conducted in 2024 as the 2024 survey is conducted as part of the Census of Agriculture ICR (OMB Control Number 0535-0236). Annually, NASS obtains lists of farm and ranch operators from different crop and livestock organizations. Before adding these names to our list of active operators we will contact the individuals to determine if they qualify as a farm or ranch and then collect basic information from them on the size and

type of operation they have. These data will be used to eliminate any duplication we may have with names already on our list.

**DATES:** Comments on this notice must be received by May 6, 2024 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535-0140, by any of the following methods:

- **Email:** [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).

Include docket number above in the subject line of the message.

- **eFax:** (855) 838-6382.

- **Mail:** Mail any paper, disk, or CD-ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.

- **Hand Delivery/Courier:** Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250-2024.

#### FOR FURTHER INFORMATION CONTACT:

Joseph L. Parsons, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720-5142. Copies of this information collection and related instructions can be obtained without charge from Richard Hopper, NASS—OMB Clearance Officer, at (202) 720-2206 or at [ombofficer@nass.usda.gov](mailto:ombofficer@nass.usda.gov).

#### SUPPLEMENTARY INFORMATION:

**Title:** List Sampling Frame Surveys.

**OMB Control Number:** 0535-0140.

**Expiration Date of Approval:** May 31, 2025.

**Type of Request:** Intent to Seek Approval to Revise and Extend an Information Collection for a period of three years.

**Abstract:** The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture. The List Sampling Frame Surveys are used to develop and maintain a complete list of possible farm and ranch operations. The goal is to produce for each State a relatively complete, current, and unduplicated list of names for statistical sampling for agricultural operation surveys and the Census of Agriculture. Data from these agricultural surveys are used by government agencies and educational institutions in planning, farm policy analysis, and program administration. More importantly, farmers and ranchers use NASS data to

help make informed business decisions on what commodities to produce and when is the optimal time to market their products. NASS data is useful to farmers in comparing their farming practices with the economic and environmental data published by NASS.

**Authority:** These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and the Office of Management and Budget regulations at 5 CFR part 1320.

All NASS employees and NASS contractors must also fully comply with all provisions of the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2018, title III of Public Law 115–435, codified in 44 U.S.C. ch. 35. CIPSEA supports NASS's pledge of confidentiality to all respondents and facilitates the agency's efforts to reduce burden by supporting statistical activities of collaborative agencies through designation of NASS agents, subject to the limitations and penalties described in CIPSEA.

**Estimate of Burden:** Public reporting burden for this collection of information is estimated to average 10 to 15 minutes per respondent.

**Respondents:** Potential Farmers and Ranchers.

**Estimated Number of Respondents:** 485,000 (annual average).

**Estimated Total Annual Burden on Respondents:** With an estimated response rate of approximately 65% NASS estimates the burden to be approximately 105,000 hours (annually).

**Comments:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (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, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, February 14, 2024.

**Joseph L. Parsons,**

*Associate Administrator.*

[FR Doc. 2024–04831 Filed 3–6–24; 8:45 am]

**BILLING CODE 3410–20–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the California Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the California Advisory Committee (Committee) to the U.S. Commission on Civil Rights will convene by ZoomGov on Friday, April 5, 2024, for the purpose of discussing updates on their report considering the civil rights implications of AB5.

**DATES:** Friday, April 5, 2024, from 1:00 p.m.–2:30 p.m. PT.

**Zoom Webinar Link to Join:** [https://www.zoomgov.com/webinar/register/WN\\_fs0FDTJLQX2qwflr1akrfw](https://www.zoomgov.com/webinar/register/WN_fs0FDTJLQX2qwflr1akrfw).

#### FOR FURTHER INFORMATION CONTACT:

Brooke Peery, Designated Federal Officer (DFO) at [bpeery@usccr.gov](mailto:bpeery@usccr.gov) or by phone at (202) 701–1376.

#### SUPPLEMENTARY INFORMATION:

Committee meetings are available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Angelica Trevino, Support Services Specialist at

[atrevino@usccr.gov](mailto:atrevino@usccr.gov) at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke Peery (DFO) at [bpeery@usccr.gov](mailto:bpeery@usccr.gov).

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via [www.facadatabase.gov](http://www.facadatabase.gov) under the Commission on Civil Rights, California Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at [atrevino@usccr.gov](mailto:atrevino@usccr.gov).

#### Agenda

- I. Welcome & Roll Call
- II. Committee Discussion
- III. Public Comment
- IV. Adjournment

Dated: March 4, 2024.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2024–04864 Filed 3–6–24; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Virtual Public Meeting of the Puerto Rico Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** Commission on Civil Rights.

**ACTION:** Notice of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Puerto Rico Advisory Committee to the Commission will hold a public meeting via Zoom. The purpose of the meeting is to continue discussion on their project on the civil rights impacts of the Insular Cases in Puerto Rico.

**DATES:** March 21, 2024, Thursday, at 3:30 p.m. Atlantic Time (3:30 p.m. EDT).

**ADDRESSES:** Meeting will be held via Zoom webinar.

**Registration Link (Audio/Visual):** <http://tinyurl.com/bdz3xfk5>; password, if needed: USCCR–PR.

*Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 160 695 3730#.

**FOR FURTHER INFORMATION CONTACT:** Email Victoria Moreno, Designated Federal Officer at [vmoreno@usccr.gov](mailto:vmoreno@usccr.gov), or by phone at 434–515–0204.

**SUPPLEMENTARY INFORMATION:** The meeting will take place in Spanish with English interpretation. This committee meeting is available to the public through the registration link and/or the phone number and webinar ID above. Interested members of the public are welcome and invited to listen to the meeting. Toward the conclusion of committee business, an open comment period will be provided to allow members of the public to make comments as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ‘CC’ in the meeting platform. To request additional accommodations, please email [ebohor@usccr.gov](mailto:ebohor@usccr.gov) at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Victoria Moreno at [vmoreno@usccr.gov](mailto:vmoreno@usccr.gov). Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–312–353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the following website, [www.facadatabase.gov](http://www.facadatabase.gov), and under the Commission on Civil Rights, Puerto Rico Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission’s website, <http://www.usccr.gov>, or may contact the Regional Programs Coordination Unit at [ebohor@usccr.gov](mailto:ebohor@usccr.gov).

## Agenda

1. Welcome & Roll Call
2. Committee Discussion on Project Regarding the Civil Rights Impacts of the Insular Cases in Puerto Rico
3. Next Steps

4. Public Comment
5. Other Business or Next Steps
6. Adjourn

Dated: March 4, 2024.

**David Mussatt,**  
Supervisory Chief, Regional Programs Unit.

[FR Doc. 2024–04862 Filed 3–6–24; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–822–804, A–570–860, A–560–811, A–449–804, A–841–804, A–455–803 and A–823–809]

### Steel Concrete Reinforcing Bars From Belarus, the People’s Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Orders

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on steel concrete reinforcing bars (rebar) from Belarus, the People’s Republic of China (China), Indonesia, Latvia, Moldova, Poland, and Ukraine would be likely to lead to continuation or recurrence of dumping at the levels indicated in the “Final Results of Sunset Reviews” section of this notice.

**DATES:** Applicable March 7, 2024.

**FOR FURTHER INFORMATION CONTACT:** Jinny Ahn or Peter Farrell, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339 or (202) 482–2104, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On November 1, 2023, Commerce published the notice of initiation of the fourth sunset review of the *Orders*<sup>1</sup> on rebar from Belarus, China, Indonesia, Latvia, Moldova, Poland, and Ukraine, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On

November 15, 2023, Commerce received a notice of intent to participate from the Rebar Trade Action Coalition (RTAC), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> RTAC claimed interested party status under section 771(9)(F) of the Act, as an association, a majority of whose members is composed of producers of a domestic like product. In addition, each individual member of RTAC claimed interested party status under 771(9)(C) of the Act, as a producer of a domestic like product in the United States.

On November 30, 2023, we received a complete substantive response for this review from RTAC within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> We received no substantive responses from respondent interested parties, nor was a hearing requested. On December 21, 2023, Commerce notified the U.S. International Trade Commission that it did not receive substantive responses from any respondent interested parties.<sup>5</sup> As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Orders* on rebar from Belarus, China, Indonesia, Latvia, Moldova, Poland, and Ukraine.

### Scope of the Orders

The products covered by the *Orders* are all steel concrete reinforcing bars sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7214.20.00, 7228.20.8050, 7222.11.0050, 7222.30.0000, 7228.60.6000, 7228.20.1000, or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through bending or coating.

HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

### Analysis of Comments Received

All issues raised in this review, including the likelihood of continuation

<sup>3</sup> See RTAC’s Letter, “Rebar from Belarus, People’s Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine—Domestic Interested Party’s Notice of Intent to Participate,” dated November 15, 2023.

<sup>4</sup> See RTAC’s Letter, “Rebar from Belarus, People’s Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine—Five-Year (Sunset) Review of Antidumping Duty Order—Domestic Interested Parties’ Substantive Response to Notice of Initiation,” dated November 30, 2023.

<sup>5</sup> See Commerce’s Letter, “Sunset Reviews for November 2023,” dated December 21, 2023.

<sup>1</sup> See *Antidumping Duty Orders: Steel Concrete Reinforcing Bars from Belarus, Indonesia, Latvia, Moldova, People’s Republic of China, Poland, Republic of Korea and Ukraine*, 66 FR 46777 (September 7, 2001) (collectively, *Orders*). On August 9, 2007, Commerce, Commerce revoked the AD order on steel concrete reinforcing bars from Korea. See *Steel Concrete Reinforcing Bars from South Korea: Revocation of Antidumping Duty Order*, 72 FR 44830 (August 9, 2007).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 88 FR 74977 (November 1, 2023).

or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the *Orders* were revoked, are addressed in the accompanying Issues and Decision Memorandum.<sup>6</sup> A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. A complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Final Results of Expedited Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average dumping margins up to 114.53 percent for Belarus, 133.00 percent for China, 71.01 for Indonesia, 16.99 percent for Latvia, 232.86 percent for Moldova, 52.07 percent for Poland, and 41.69 percent for Ukraine.

### Administrative Protective Order

This notice serves as the only reminder to interested parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

### Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: February 29, 2024.

**Ryan Majerus,**

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

### Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margins Likely to Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2024-04822 Filed 3-6-24; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Announcement of Approved International Trade Administration Business Development Mission

**AGENCY:** International Trade Administration, Department of Commerce.

**SUMMARY:** The United States Department of Commerce, International Trade Administration (ITA), is announcing one upcoming business development mission that will be recruited, organized, and implemented by ITA. This mission is: Taiwan Uncrewed Aircraft Systems (UAS) & Counter-UAS (C-UAS) Business Development Mission—September 22–25, 2024. A summary of the mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission website: <https://www.trade.gov/trade-missions>. For each mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<https://www.trade.gov/trade-missions-schedule>) and other internet websites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Odum, Events Management Task Force, International Trade Administration, U.S. Department of

Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone: (202) 482-6397 or email [Jeffrey.Odum@trade.gov](mailto:Jeffrey.Odum@trade.gov).

### SUPPLEMENTARY INFORMATION:

#### The Following Conditions for Participation Will Be Used for the Mission

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

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least 51% U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, are marketed under the name of a U.S. firm and have at least 51% U.S. content by value.

A trade association/organization applicant must certify and agree to the above for every company it seeks to represent on the mission. In addition, each applicant must:

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

<sup>6</sup> See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders on Steel Concrete Reinforcing Bars from Belarus, the People's Republic of China, Indonesia, Latvia, Moldova, Poland, and Ukraine," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

#### **The Following Selection Criteria Will Be Used for the Mission**

Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or expanding their business in the mission's destination. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) products or services to these markets;
- The applicant's (or in the case of a trade association/organization, represented firm's or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and
- Consistency of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) goals and objectives with the stated scope of the mission.

Balance of applicant's size and location may also be considered during the review process. Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

#### **Definition of Small and Medium-Sized Enterprise**

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

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

Taiwan Uncrewed Aircraft Systems (UAS) & Counter-UAS (C-UAS) Business Development Mission—September 22–25, 2024.

#### **Summary**

The United States Department of Commerce, International Trade Administration ("ITA") is organizing a Taiwan Uncrewed Aircraft Systems (UAS) and Counter-UAS (C-UAS) Business Development Mission from September 22 through September 25, 2024. The objective of this mission is to advance U.S. national interests and focus on meeting Taiwan market demand for UAS and C-UAS commercial and defense solutions.

The business development mission will include 15–20 representatives from U.S. UAS and C-UAS manufacturers and service providers. The mission will facilitate connections to the Taiwan authorities and private sector customers, including defense, security, and police services, as well as critical infrastructure such as airports and manufacturing facilities.

ITA will organize a tailored program for U.S. companies exploring opportunities in the Taiwan market and will leverage strong connections with U.S. interagency partners to lead discussions on trade, security, and technical aspects of doing business with Taiwan's defense industry. Mission participants will benefit from strong American Institute in Taiwan (AIT) connections to the Taiwan authorities and industry through public-to-private sector and business-to-business matchmaking and networking events, roundtables with Taiwan representatives and industry leaders, product presentations, and site visits to commercial and defense manufacturing facilities, all bolstered by the guidance and insights of ITA's commercial team.

The business development mission is an opportunity for U.S. companies to explore market development opportunities in Taiwan, strengthen the U.S.-Taiwan trade relationship, showcase the technology, know-how, and capabilities that U.S. industry has to offer, and demonstrate U.S. interest in partnering with Taiwan to strengthen its self-defense capabilities. Mission participants will receive an enhanced ability to secure meetings and gain greater exposure to the Taiwan commercial and defense market.

The Taiwan defense market has seen recent rapid growth spurred by regional tensions. U.S. manufacturers of defense equipment benefit from a long-standing relationship with the Taiwan authorities and defense industry leaders. However, U.S. companies participating in the

Taiwan market face significant hurdles as new entrants, including finding local partners, navigating offset requirements and technology transfer, and growing competition from both domestic and international manufacturers.

In 2021, the overall Taiwan aerospace and defense market was \$9.2 billion, with U.S. imports accounting for 39.5% of the market. U.S. arms sales to Taiwan have significantly aided in enabling Taiwan to maintain a sufficient self-defense capability. From 2019 to August 2022, the U.S. Government notified Congress of more than \$18.5 billion in Foreign Military Sales to Taiwan.

With increased tensions in the Taiwan Strait, the Taiwan authorities have demonstrated a strengthened commitment to modernizing its military capabilities. Taiwan implemented a \$24.6 billion defense budget in 2023—a nearly 10 percent increase over 2022—and has developed programs to catalyze the growth of specific defense and security capabilities, including UAS and C-UAS. In 2022, the Taiwan authorities announced an effort to develop and procure 3,200 UAS by mid-2024 with an eventual goal of several times that number within five years.

Mission participants will benefit from the expertise and connections of the U.S. Department of Commerce, the American Institute in Taiwan, and U.S. interagency partners to the Taiwan authorities and defense industry leaders, facilitating meetings with decision-makers and procurement leaders.

This business development mission seeks U.S. UAS and C-UAS equipment manufacturers and software providers exploring market development opportunities and companies intent on making connections to Taiwan commercial and defense firms and the Taiwan authorities. Relevant mission applicants include companies producing UAS products and parts for defense and commercial markets with applications including defense, national security, police services, disaster and emergency management, search and rescue, and critical infrastructure inspection. Relevant mission applicants for C-UAS products include companies engaged in software, hardware, and parts production for the detection, identification, tracking, and mitigation of UAS. Both soft and hard defeat platforms are applicable depending on the participant's goals for commercial and defense applications. Taiwan customers include defense, security, and police services, as well as critical infrastructure such as airports and energy and manufacturing facilities.



Relevant mission applicant industry sectors include Uncrewed Aircraft Systems (UAS); Counter Uncrewed Aircraft Systems (C-UAS); Security Systems and Equipment; Command, Control, Communication & Information Systems; Radar; and Underwater Uncrewed Vehicles (UUV), Air Traffic Management Systems (ATM), and Uncrewed Aircraft Systems Traffic Management (UTM).

Previous experience in foreign markets is preferred. Companies do not require previous experience in the Taiwan market.

Taiwan

Taipei, Taiwan—Mission participants will travel to Taipei to participate in briefings, policy discussions, and roundtable sessions curated by ITA and AIT. Mission participants arriving in Taipei will be provided an overview of policy and industry priorities from AIT personnel as well as U.S. interagency specialists. Participants will gain insight into opportunities and challenges present in the Taiwan defense market from industry experts and meet with procurement officials from organizations such as the Ministry of National Defense (MND), National Chung-Shan Institute of Science and Technology (NCSIST), the Aerospace Industrial Development Corporation (AIDC), and leading trade associations -specific entities and meetings to be confirmed.

Other Products and Services

The foregoing analysis of defense-related opportunities in Taiwan is not intended to be exhaustive, but

illustrative of the many opportunities available to U.S. businesses. Applications from companies selling products or services within the scope of this mission, but not specifically identified, will be considered and evaluated by the U.S. Department of Commerce. Companies whose products or services do not fit the scope of the mission may contact their local U.S. Export Assistance Center (USEAC) to learn about other business development missions and services that may provide more targeted export opportunities. Companies may go to <http://help.export.gov/> or <http://trade.gov> to obtain such information.

Mission Goals

The purpose of this business development mission is to advance U.S. national interests by developing export prospects for U.S. companies and to connect U.S. UAS and C-UAS companies with the rapidly growing Taiwan commercial and defense market. The mission will aid companies through guidance and expertise from the U.S. Commercial Service and connections to leaders in industry and the Taiwan authorities.

Mission Goals include:

- Provide U.S. UAS and C-UAS companies the opportunity to explore the market potential for their products.
- Strengthen connections between U.S. companies and Taiwan aerospace and defense companies in a key market in East Asia by leveraging connections with interagency partners in the region and AIT’s connections to the local defense industry, Taiwan authorities responsible for procurement, and

leaders of critical infrastructure facilities.

- Leverage U.S. interagency partners to connect with prospective business development mission participating companies and with high-level representatives of the Taiwan authorities and industry officials to enhance U.S. participants’ export potential.
- Connect participants with senior-level Taiwan authorities in a setting that facilitates progress on business development projects. For companies new to the market, this will be an opportunity to make initial contacts and learn more about Taiwan’s market.
- Showcase the technology, know-how, and capabilities the U.S. private sector has to offer and demonstrate U.S. interest in partnering with Taiwan to bolster its security and resilience.

The business development mission will be based in Taipei, Taiwan, where companies will have opportunities to connect with Taiwan’s defense decision-makers at events hosted by AIT, local industry, and industry associations. Companies will participate in business-to-business (B2B) and public-to-private matchmaking. An evening reception will be organized by AIT. The U.S. Commercial Service will be on-site and available to provide market information and offer logistics assistance throughout the mission.

Proposed Timetable

**\* Note:** The final schedule and potential site visits will depend on the availability of the Taiwan authorities and business officials, specific goals of mission participants, and ground transportation.

|   |  |
|---|--|
| Sunday, September 22, 2024, Taipei .....    | <ul style="list-style-type: none"><li>• Business Development Mission Participants Arrive in Taipei, Taiwan.</li><li>• Welcome No Host Dinner with Business Development Mission Participants.</li></ul>   |
| Monday, September 23, 2024, Taipei .....    | <ul style="list-style-type: none"><li>• AIT Island Team Briefing.</li><li>• Policy roundtables with AIT, USG (DOC), and industry.</li><li>• Site visits to commercial and defense manufacturers.</li><li>• Evening networking reception.</li></ul> |
| Tuesday, September 24, 2024, Taipei .....   | <ul style="list-style-type: none"><li>• Roundtable with Taiwan UAS associations.</li><li>• Public-to-private sector meetings.</li><li>• One-on-one business matchmaking.</li></ul>   |
| Wednesday, September 25, 2024, Taipei ..... | <ul style="list-style-type: none"><li>• One-on-One business matchmaking.</li><li>• Evening networking reception.</li><li>• End of Mission.</li></ul>   |

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and a maximum of 20 firms and/

or trade associations will be selected to participate in the mission from the applicant pool.

**Fees and Expenses**

After a firm or trade association has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Taiwan UAS and C-UAS Mission

will be \$3600.00 for small or medium-sized enterprises (SME); <sup>1</sup> and \$5200.00

<sup>1</sup> For purposes of assessing participation fees, an applicant is a small or medium-sized enterprise (SME) if it qualifies under the Small Business Administration’s (SBA) size standards (<https://www.sba.gov/document/support-table-size-standards>), which vary by North American Industry Classification System (NAICS) Code. The SBA Size Standards Tool [<https://www.sba.gov/size-standards/>] can help you determine the qualifications that apply to your company.



for large firms or trade associations. The fee for each additional firm representative (large firm or SME/trade organization) is \$1000.00. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged for additional cost. Delegation members will be able to take advantage of AIT rates for hotel rooms.

If and when an applicant is selected to participate on a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee below is required. Upon notification of acceptance to participate, those selected have 5 business days to submit payment or the acceptance may be revoked.

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

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

Business Development Mission members participate in missions and undertake mission-related travel at their own risk. The nature of the security situation in a given foreign market at a given time cannot be guaranteed. The U.S. Government does not make any representations or guarantees as to the safety or security of participants. The U.S. Department of State issues U.S. Government international travel alerts and warnings for U.S. citizens available at <https://travel.state.gov/content/passports/en/alertswarnings.html>. Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

Travel and in-person activities are contingent upon the safety and health conditions in the United States and the mission economies. Should safety or

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

#### Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar ([http://export.gov/trade\\_missions](http://export.gov/trade_missions)) and other internet websites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than April 26, 2024. The U.S. Department of Commerce will review applications and inform applicants of selection decisions on a rolling basis. Applications received after April 26, 2024, will be considered only if space and scheduling constraints permit.

#### Contacts

##### Project Lead

Luke Yanos, Senior International Trade Specialist, Commercial Service Chicago, 872-327-8038, [Luke.Yanos@trade.gov](mailto:Luke.Yanos@trade.gov)

Jacqueline Roeder, International Trade Specialist, Commercial Service San Diego, 619-209-9233, [Jacqueline.Roeder@Trade.gov](mailto:Jacqueline.Roeder@Trade.gov)

##### U.S. Based Recruitment Lead

Paul Matino, Acting Director, Commercial Service Baltimore, 443-286-1263, [Paul.Matino@trade.gov](mailto:Paul.Matino@trade.gov)  
Jason Sproule, Aerospace & Defense Global Team Leader, Commercial Service Los Angeles, 949-283-0690, [Jason.Sproule@trade.gov](mailto:Jason.Sproule@trade.gov)

Stefanie Merchant, International Trade Specialist, Industry & Analysis Aerospace Team, 202-573-2772, [Stefanie.Merchant@trade.gov](mailto:Stefanie.Merchant@trade.gov)  
Jeffrey Dutton, Commercial Officer, American Institute in Taiwan, +886 2162-2633, [Jeffrey.Dutton@trade.gov](mailto:Jeffrey.Dutton@trade.gov)

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Christopher Ashe, Deputy Director, Global Markets, Office of East Asia and Oceania, [Christopher.Ashe@trade.gov](mailto:Christopher.Ashe@trade.gov)

#### Gemal Brangman,

Director, Trade Events Management Task Force.

[FR Doc. 2024-04863 Filed 3-6-24; 8:45 am]

BILLING CODE 3510-DR-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-828, A-823-805]

#### Silicomanganese From the People's Republic of China and Ukraine: Final Results of the Expedited Fifth Sunset Reviews of the Antidumping Duty Orders

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

**SUMMARY:** As a result of these expedited sunset reviews, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on silicomanganese from the People's Republic of China (China) and Ukraine would be likely to lead to continuation or recurrence of dumping at the levels indicated in the "Final Results of Expedited Sunset Reviews" section of this notice.

**DATES:** Applicable March 7, 2024.

#### FOR FURTHER INFORMATION CONTACT:

Aleksandras Nakutis, AD/AD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3147.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 1, 2023, Commerce published in the **Federal Register** the initiation of the fifth sunset reviews of antidumping duty orders on silicomanganese from China and Ukraine pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>1</sup>

<sup>1</sup> See *Initiation of Five-Year (Sunset) Reviews*, 88 FR 74978 (November 1, 2023); see also *Silicomanganese from the People's Republic of China (PRC): Antidumping Duty Order*, 59 FR 66003 (December 22, 1994); and *Suspension Agreement on Silicomanganese from Ukraine; Termination of Suspension Agreement and Notice of Antidumping Duty Order*, 66 FR 43838 (August 21, 2001) (collectively, *Orders*).

On November 15, 2023, we received a timely notice of intent to participate in these sunset reviews from Eramet Marietta, Inc. (Eramet), a domestic interested party, pursuant to 19 CFR 351.218(d)(1)(i).<sup>2</sup> Eramet claimed interested party status under section 771(9)(C) of the Act as a manufacturer of a domestic like product in the United States. On November 30, 2023, Eramet provided complete substantive responses for these reviews within the 30-day deadline specified in 19 CFR 351.2218(d)(3)(i).<sup>3</sup> Commerce did not receive substantive responses from any respondent parties, and no party requested a hearing.

On December 21, 2023, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from other interested parties.<sup>4</sup> As a result, in accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited, *i.e.*, 120-day, sunset reviews of the *Orders*.

#### Scope of the Orders

The product covered by the *Orders* is silicomanganese. For a full description of the scope of the *Orders*, see the Issues and Decision Memorandum.<sup>5</sup>

#### Analysis of the Comments Received

All issues raised in these sunset reviews are addressed in the Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce

determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of dumping and that the magnitude of the margins of dumping likely to prevail would be margins up to 150.00 percent for China and 163.00 percent for Ukraine.

#### Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

#### Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: February 29, 2024.

**Ryan Majerus,**

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

#### Appendix

##### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. History of the *Orders*
- V. Legal Framework
- VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Expedited Sunset Reviews
- VIII. Recommendation

[FR Doc. 2024-04823 Filed 3-6-24; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[C-533-878]

#### Stainless Steel Flanges From India: Final Results of Countervailing Duty Administrative Review; 2021

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being

provided to producers and exporters of stainless steel flanges from India during the period of review (POR) of January 1, 2021, through December 31, 2021.

**DATES:** Applicable March 7, 2024.

#### FOR FURTHER INFORMATION CONTACT:

Eliza DeLong, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3878.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 6, 2023, Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** and invited interested parties to comment.<sup>1</sup> We received no comments from interested parties on the *Preliminary Results*, and we have otherwise made no changes from the *Preliminary Results*. Accordingly, no decision memorandum accompanies this **Federal Register** notice; the *Preliminary Results* and accompanying Preliminary Decision Memorandum are hereby adopted in these final results. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

##### Scope of the Order<sup>2</sup>

The products covered by this *Order* are stainless steel flanges from India. For a complete description of the scope of the *Order*, see the *Preliminary Results*.<sup>3</sup>

##### Final Results of Review

For the period January 1, 2021, through December 31, 2021, we determine that the following net countervailable subsidies exist:

| Producer/exporter            | Subsidy rate<br>(percent <i>ad valorem</i> ) |
|------------------------------|--|
| Chandan Steel Limited .....  | 2.60   |
| Pradeep Metals Limited ..... | 4.04   |

##### Review-Specific Average Rate Applicable to the Following Company

|                                    |      |
|------------------------------------|------|
| BFN Forgings Private Limited ..... | 2.82 |
|------------------------------------|------|

<sup>1</sup> See *Stainless Steel Flanges from India: Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission of Review; 2021*, 88 FR 76173 (November 6, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See *Stainless Steel Flanges from India: Countervailing Duty Order*, 83 FR 50336 (October 5, 2018) (*Order*).

<sup>3</sup> See *Preliminary Results* PDM at 3.

<sup>2</sup> See Eramet's Letters, "Notice of Intent to Participate," dated November 15, 2023.

<sup>3</sup> See Eramet's Letters, "Substantive Response," dated November 30, 2023.

<sup>4</sup> See Commerce's Letter, "Sunset Reviews for November 2023," dated December 21, 2023.

<sup>5</sup> See Memorandum, "Issues and Decision Memorandum for the Final Results of the Expedited Fifth Sunset Reviews of the Antidumping Duty Orders on Silicomanganese from the People's Republic of China and Ukraine," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

## Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we have made no changes to the *Preliminary Results*, there are no calculations to disclose.

## Assessment Rates

Consistent with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

## Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the companies listed above for shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

## Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply

with the regulations and terms of an APO is a violation subject to sanction.

## Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: February 29, 2024.

**Ryan Majerus,**

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

[FR Doc. 2024–04821 Filed 3–6–24; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–331–805, A–560–842]

### Frozen Warmwater Shrimp From Ecuador and Indonesia: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

**DATES:** Applicable March 7, 2024.

**FOR FURTHER INFORMATION CONTACT:** Kyle Clahane (Ecuador) or Rachel Jennings (Indonesia), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5549 and (202) 482–1110, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On November 14, 2023, the U.S. Department of Commerce (Commerce) initiated the less-than-fair-value (LTFV) investigations of imports of frozen warmwater shrimp (shrimp) from Ecuador and Indonesia.<sup>1</sup> Currently, the preliminary determinations are due no later than April 2, 2024.

#### Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A)(b)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on

which Commerce initiated the investigation if: (A) the petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On November 27, 2023, the petitioner<sup>2</sup> submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.<sup>3</sup> The petitioner stated that it requests postponement due to concerns regarding the complexity of the issues presented in these investigations.<sup>4</sup>

For the reason stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.*, 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than May 22, 2024. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

## Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 1, 2024.

**Ryan Majerus,**

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

[FR Doc. 2024–04880 Filed 3–6–24; 8:45 am]

**BILLING CODE 3510–DS–P**

<sup>2</sup> The petitioner is the American Shrimp Processors Association.

<sup>3</sup> See Petitioner's Letter, "Request to Extend the Preliminary Determination," dated November 27, 2023.

<sup>4</sup> *Id.*

<sup>1</sup> See *Frozen Warmwater Shrimp from Ecuador and Indonesia: Initiation of Less-Than-Fair-Value Investigations*, 88 FR 81043 (November 21, 2023).

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-028]

**Antidumping Duty Order on Hydrofluorocarbon Blends From the People's Republic of China: Preliminary Affirmative Determination of Circumvention With Respect to R-410B From the Republic of Turkey**

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

**SUMMARY:** The U.S. Department of Commerce preliminarily determines that imports of R-410B from the Republic of Turkey (Turkey), which are completed in Turkey using components originating in the People's Republic of China (China), and further processed in the United States, as specified below, are circumventing the antidumping duty (AD) order on hydrofluorocarbon (HFC) blends from China.

**DATES:** Applicable March 7, 2024.

**FOR FURTHER INFORMATION CONTACT:** Melissa Porpotage, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1413.

**SUPPLEMENTARY INFORMATION:****Background**

On August 19, 2016, Commerce published the *Order* in the **Federal Register**.<sup>1</sup> On July 7, 2023, Commerce initiated a country-wide circumvention inquiry to determine whether imports of R-410B from Turkey, completed in Turkey using HFC components R-32 (difluoromethane) and R-125 (pentafluoroethane) (collectively, China-origin components) manufactured in China, and further processed in the United States are circumventing the *Order* and, accordingly, should be covered by the scope of the *Order*.<sup>2</sup> In August 2023, Commerce selected the following two mandatory respondents in this circumvention inquiry: Cantas Ic Ve Dis Ticaret Sogutma Sistemleri Sanayi A.S. (Cantas) and ICE Sogutma Sanayi Ve Ticaret Ltd. (ICE Sogutma).<sup>3</sup> For a complete description of the events

that followed the initiation of this circumvention inquiry, *see* the Preliminary Decision Memorandum.<sup>4</sup>

**Scope of the Order**

The merchandise covered by the *Order* is certain HFC blends. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.<sup>5</sup>

**Merchandise Subject to the Circumvention Inquiry**

This circumvention inquiry covers imports of R-410B from Turkey, which are completed in Turkey using China-origin HFC components and further processed in the United States (inquiry merchandise).

**Methodology**

Commerce is conducting this circumvention inquiry in accordance with section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. For a complete description of the methodology underlying this circumvention inquiry, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is included in Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

**Preliminary Circumvention Determination**

As detailed in the Preliminary Decision Memorandum, and the "Application of Facts Available and Use of Adverse Inferences" section, Commerce preliminarily determines that R-410B from Turkey, completed in Turkey using HFC components from China, that is further processed in the United States, is circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(a) of the Act, we preliminarily determine that the inquiry merchandise should be included within the scope of the *Order*.

*See* the "Suspension of Liquidation and Cash Deposit Requirements" section below for details regarding suspension of liquidation and cash deposit requirements. *See* the "Certifications" and "Certification Requirements for Turkey" sections below for details regarding the use of certifications for inquiry merchandise exported from Turkey.

**Use of Adverse Facts Available (AFA)**

Pursuant to section 776(a) of the Act, if the necessary information is not available on the record, or an interested party withholds requested information, fails to provide requested information by the deadline or in the form and manner requested, or significantly impedes a proceeding, Commerce shall use the facts otherwise available in reaching the applicable determination. Moreover, pursuant to section 776(b) of the Act, Commerce may use inferences adverse to the interests of an interested party in selecting from among the facts otherwise available if the party fails to cooperate by not acting to the best of its ability to provide requested information.

Commerce requested information from Cantas and ICE Sogutma. In these initial questionnaires, Commerce explained that, if the company to which Commerce issued the questionnaire fails to respond to the questionnaire, or fails to provide the requested information, Commerce may find that the company failed to cooperate by not acting to the best of its ability to comply with the request for information, and may use an inference that is adverse to the company's interests in selecting from the facts otherwise available. Cantas, one of the mandatory respondents in Turkey, received, but failed to respond to, Commerce's questionnaire.<sup>6</sup>

Therefore, we preliminarily find that Cantas failed to provide requested information by the deadline or in the form and manner requested, and significantly impeded this inquiry. Moreover, we find that this company failed to cooperate to the best of its ability to provide the requested information because it did not provide a response to Commerce's initial questionnaire. Consequently, we used adverse inferences with respect to Cantas in selecting from among the facts otherwise available on the record, pursuant to sections 776(a) and (b) of the Act. For details regarding the AFA used in this preliminary determination, *see* the Preliminary Decision Memorandum.

<sup>6</sup> *Id.* at 4–6; *see also* Memorandum, "Delivery Confirmation," dated September 1, 2023.

<sup>1</sup> *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order*, 81 FR 55436 (August 19, 2016) (*Order*).

<sup>2</sup> *See Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty Order*, 88 FR 43275 (July 7, 2023) (*Initiation Notice*).

<sup>3</sup> *See* Memorandum, "Respondent Selection," dated August 25, 2023; *see also* Commerce's Letter, "R-410B from Turkey Initial Questionnaire," dated August 28, 2023.

<sup>4</sup> *See* Memorandum, "Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: Preliminary Decision Memorandum for the Circumvention Inquiry with Respect to R-410B from the Republic of Turkey," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>5</sup> *Id.* at 3–4.

As detailed in the Preliminary Decision Memorandum, based on AFA, we preliminarily determine that Cantas further processed the inquiry merchandise in the United States into subject merchandise, and that U.S. entries of that merchandise are circumventing the *Order*. Additionally, we preliminarily find that Cantas is precluded from participating in the certification program that we are establishing for exports of R-410B completed in Turkey using HFC components from China, that is further processed in the United States.

### **Suspension of Liquidation and Cash Deposit Requirements**

Based on the preliminary affirmative country-wide determination of circumvention for Turkey, in accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of R-410B, completed in Turkey using China-origin components, that were entered, or withdrawn from warehouse, for consumption on or after July 7, 2023, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.<sup>7</sup> CBP shall require cash deposits in accordance with the rate established for the China-wide entity, *i.e.*, 216.37 percent,<sup>8</sup> for entries of such merchandise produced in Turkey.

R-410B produced in Turkey from HFC blends that is not of Chinese-origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *Order*. If an importer imports R-410B from Turkey and claims that it was not produced using China-origin HFC components and/or not further processed into subject merchandise in the United States, in order to not be subject to the *Order* cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in the “Certifications” and “Certification Requirements for Turkey” sections, below.

Commerce has established the following third-country case number for Turkey in the Automated Commercial Environment (ACE) for such entries: A-489-400. For Cantas, which will not be permitted to certify that its merchandise was not produced from China-origin HFC components, Commerce will direct CBP, for all entries of R-410B from Turkey produced or exported by Cantas,

to suspend liquidation and require a cash deposit at the rate established for the China-wide entity, *i.e.*, 216.37 percent, under this third country case number.<sup>9</sup>

Where no certification is provided for an entry, and the *Order* potentially applies to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate established for the China-wide entity, *i.e.*, 216.37 percent, under the third-country case number above. These suspension of liquidation instructions will remain in effect until further notice.

### **Certified Entries**

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be subject to either the suspension of liquidation or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to duties.

### **Certifications**

To administer the preliminary affirmative country-wide determination of circumvention, Commerce established importer and exporter certifications, which allow companies to certify that specific entries of R-410B from Turkey are not subject to suspension of liquidation or the collection of cash deposits pursuant to this preliminary affirmative country-wide determination of circumvention because the merchandise is not made with China-origin components and/or it is not further processed into subject merchandise in the United States (*see* Appendix II to this notice).

Because Cantas was non-cooperative, it is not currently eligible to participate in the certification program described above.<sup>10</sup> Commerce may reconsider the eligibility of Cantas in the certification process in a future administrative review. Each year during the anniversary month of the publication of

an AD or countervailing duty (CVD) order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review of the *Order* should wait until Commerce announces via the **Federal Register** the next opportunity during the anniversary month of the publication of the *Order* to submit such review requests. The anniversary month for this *Order* is August.

Importers and exporters that claim that their entries of R-410B from Turkey are not subject to suspension of liquidation or the collection of cash deposits because the merchandise is not made with China-origin components and/or is not further processed into subject merchandise in the United States must complete the applicable certifications and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

### **Certification Requirements for Turkey**

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. However, agents of the importer, such as brokers, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.*, invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the

<sup>7</sup> See *Initiation Notice*, 88 FR at 43275.

<sup>8</sup> See *Order*, 81 FR at 55438.

<sup>9</sup> Cantas is not currently eligible to participate in the certification program as either the producer or exporter. In addition, other parties exporting R-410B produced by Cantas will likewise not be eligible to participate in the certification program with regard to such products.

<sup>10</sup> See Preliminary Decision Memorandum at the “Application of Facts Available and Use of Adverse Inferences” section; *see also, e.g., Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672, 54675–76 (October 13, 1998).

party selling the R-410B that was manufactured in Turkey and exported to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all R-410B from Turkey that was entered, or withdrawn from warehouse, for consumption during the period July 7, 2023 (the date of initiation of this circumvention inquiry), through the date of publication of the preliminary determination in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should be completed and signed as soon as practicable, but not later than 45 days after the date of publication of this preliminary determination in the **Federal Register**. For such entries, importers and exporters each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof. The exporter must provide the importer with a copy of the exporter certification within 45 days of the date of publication of this preliminary determination in the **Federal Register**.

For unliquidated entries (and entries for which liquidation has not become final) of R-410B from Turkey that were declared as non-AD type entries (e.g., type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period July 7, 2023 (the date of initiation of this circumvention inquiry), through the date of publication of the preliminary determination in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (e.g., type 01 to type 03). Importers should report those AD type entries using the third-country case numbers identified in the "Suspension of Liquidation and Cash Deposit Requirements" section, above. The importer should pay cash deposits on those entries consistent with the

regulations governing post summary corrections that require payment of additional duties.

If it is determined that an importer and/or exporter has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this preliminary affirmative country-wide determination of circumvention and the *Order*,<sup>11</sup> all unliquidated entries for which these requirements were not met and to require the importer to post applicable cash deposits equal to the rate noted above.

Interested parties may comment on these certification requirements, and on the certification language contained in Appendix II to this notice in their case briefs.

#### Verification

As provided in 19 CFR 351.307, Commerce may verify information relied upon in making its final determination.

#### Public Comment

Case briefs or other written comments should be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which any verification report is issued. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.<sup>12</sup> Interested parties who submit case briefs or rebuttal briefs in these proceedings must submit: (1) a statement of the issue; and (2) a table of authorities.<sup>13</sup> Case and rebuttal briefs should be filed using ACCESS.

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this circumvention inquiry, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>14</sup> Further, we request that interested parties limit their executive

summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination of this circumvention inquiry. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>15</sup>

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

#### U.S. International Trade Commission Notification

Consistent with section 781(e) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to this circumvention inquiry within the *Order*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

#### Notification to Interested Parties

Commerce is issuing and publishing this determination in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(1).

<sup>11</sup> See *Order*.

<sup>12</sup> See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Final Service Rule*).

<sup>13</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>14</sup> We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

<sup>15</sup> See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

Dated: March 1, 2024.

**Ryan Majerus,**

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

**Appendix I—Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of the Circumvention Inquiry
- VI. Application of Facts Available and Use of Adverse Inferences
- VII. Statutory and Regulatory Framework for the Circumvention Inquiry
- VIII. Statutory Analysis for the Circumvention Inquiry
- IX. Summary of Statutory Analysis
- X. Country-Wide Affirmative Determination of Circumvention and Certification Requirements
- XI. Recommendation

**Appendix II—Importer Certification**

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS of IMPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the hydrofluorocarbon (HFC) blend R-410B produced in Turkey that entered under the entry number(s) identified below, and which is covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product, including the exporter's and/or foreign seller's identity and location.

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The R-410B covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The R-410B covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED} located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. Select appropriate statement below:

—The R-410B covered by this certification does not contain HFC Components produced in China.

—I have direct personal knowledge of the facts regarding the end use of the imported product because my company is the end user of the imported product covered by

this certification and I certify that the imported R-410B from Turkey will not be used to produce subject merchandise. "Direct personal knowledge" includes information contained within my company's books and records.

—I do not have personal knowledge of the facts regarding the end use of the imported product because my company is not the end user of the imported product covered by this certification. However, I have been able to contact the end user of the imported product and confirm that it will not use this product to produce subject merchandise. The end user of the imported product is {COMPANY NAME} located at {ADDRESS}. "Personal knowledge" includes facts obtained from another party (e.g., correspondence received by the importer from the end user of the product).

F. The imported R-410B covered by this certification will not be further processed into in-scope HFC blends in the United States.

G. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Country of Origin of HFC Components:

Producer:

Producer's Address:

H. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, chemical testing specifications, productions records, invoices, etc.) for the later of: (1) the date that is five years after the date of the latest entry covered by the certification or; (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

I. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer and exporter certifications as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

J. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

K. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of

the antidumping duty (AD) order on hydrofluorocarbon blends from the People's Republic of China. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the requirement that the importer post applicable antidumping duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

L. I understand that agents of the importer, such as brokers, are not permitted to make this certification.

M. This certification was completed by the time of filing the entry summary, if the entry date is more than 14 days after the publication of Commerce's preliminary determination of circumvention in the **Federal Register**, or within 45 days of the date on which Commerce published its notice of preliminary determination of circumvention in the **Federal Register**.

N. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE OF COMPANY OFFICIAL}

{DATE}

**Exporter Certification**

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}; located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES};

B. I have direct personal knowledge of the facts regarding the production and exportation of the hydrofluorocarbon (HFC) blend R-410B for which sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

C. The R-410B, and the individual components thereof, covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The R-410B produced in Turkey does not contain HFC components (i.e., R-32 and R-125) produced in the People's Republic of China (China), regardless of whether sourced directly from a Chinese producer or from a downstream supplier;

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:



Foreign Seller's Invoice to U.S. Customer  
Line item #:  
Producer Name:  
Producer's Address:  
Producer's Invoice # to Foreign Seller: *(If the foreign seller and the producer are the same party, put NA here.)*  
Name of Producer of HFC Components:  
Location (Country) of Producer of HFC Components:

F. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, chemical testing specifications, productions records, invoices, *etc.*) for the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

H. I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

I. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty order on hydrofluorocarbon blends from the People's Republic of China. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and  
(iii) the seller/exporter no longer being allowed to participate in the certification process.

J. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

K. This certification was completed at the time of shipment, if the entry date is more than 14 days after the publication of Commerce's preliminary determination of circumvention in the **Federal Register**, or within 45 days of the date on which Commerce published its preliminary determination of circumvention in the **Federal Register**.

L. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who

knowingly and willfully make material false statements to the U.S. government.

Signature  
{NAME OF COMPANY OFFICIAL}  
{TITLE OF COMPANY OFFICIAL}  
{DATE}

[FR Doc. 2024-04882 Filed 3-6-24; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Announcement of Approved International Trade Administration Trade Mission

**AGENCY:** International Trade Administration, Department of Commerce.

**SUMMARY:** The United States Department of Commerce, International Trade Administration (ITA), is announcing one upcoming trade mission that will be recruited, organized, and implemented by ITA. This mission is: Global Diversity Export Initiative (GDEI) Trade Mission to Saudi Arabia—December 8–9, 2024. A summary of the mission is found below. Application information and more detailed mission information, including the commercial setting and sector information, can be found at the trade mission website: <https://www.trade.gov/trade-missions>. For each mission, recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (<https://www.trade.gov/trade-missions-schedule>) and other internet websites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Odum, Global Trade Programs, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6397 or email [Jeffrey.Odum@trade.gov](mailto:Jeffrey.Odum@trade.gov).

#### SUPPLEMENTARY INFORMATION:

#### The Following Conditions for Participation Will Be Used for the Mission

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on their products and/or services, primary market objectives, and goals for participation that is adequate to allow the Department of Commerce to

evaluate their application. If the Department of Commerce receives an incomplete application, the Department of Commerce may either: reject the application, request additional information/clarification, or take the lack of information into account when evaluating the application. If the requisite minimum number of participants is not selected for a particular mission by the recruitment deadline, the mission may be cancelled.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least 51% U.S. content by value. In the case of a trade association or organization, the applicant must certify that, for each firm or service provider to be represented by the association/organization, the products and/or services the represented firm or service provider seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content by value.

A trade association/organization applicant must certify and agree to the above for every company it seeks to represent on the mission. In addition, each applicant must:

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

In the case of a trade association/organization, the applicant must certify that each firm or service provider to be represented by the association/organization can make the above certifications.

#### The Following Selection Criteria Will Be Used for the Mission

Targeted mission participants are U.S. firms, services providers and trade associations/organizations providing or promoting U.S. products and services that have an interest in entering or



expanding their business in the mission's destination country. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) products or services to these markets;
- The applicant's (or in the case of a trade association/organization, represented firm's or service provider's) potential for business in the markets, including likelihood of exports resulting from the mission; and
- Consistency of the applicant's (or in the case of a trade association/organization, represented firm's or service provider's) goals and objectives with the stated scope of the mission.

Balance of company size and location may also be considered during the review process. Referrals from a political party or partisan political group or any information, including on the application, containing references to political contributions or other partisan political activities will be excluded from the application and will not be considered during the selection process. The sender will be notified of these exclusions.

#### **Definition of Small and Medium-Sized Enterprise**

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

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

#### **Global Diversity Export Initiative (GDEI) Trade Mission to Saudi Arabia—December 8–9, 2024**

##### **Summary**

The United States Department of Commerce, International Trade Administration (ITA), is organizing a Global Diversity Export Initiative (GDEI) Trade Mission to Saudi Arabia from December 8–9, 2024.

This mission is focused on expanding export opportunities to U.S. small and medium-sized businesses that are founded, led, operated, or owned by women, from industries with growing

potential in Saudi Arabia, but is open to all export-ready U.S. companies. The mission is horizontal, with various sectors represented, based on best prospects for U.S. companies in Saudi Arabia. Best prospect sectors are Education/Vocational Training; Healthcare; Information and Communication Technology (e.g., e-commerce, HealthTech, financial technology and AI); Infrastructure (e.g., project management and architecture); Aerospace; Consumer Goods (e.g., beauty and wellness); Defense and Security; Oil, Gas and Petrochemicals; Renewable Energy; Transportation and Logistics; Travel, Tourism and Entertainment; Waste Management and Water.

Recruitment and consideration will be extended to all export-ready U.S. companies, including small businesses, trade associations and other exporting organizations that meet the established criteria for participation in the mission. In keeping with the U.S. Department of Commerce's Equity Action Plan, ITA seeks to improve outreach to and representation of businesses with owners and/or leaders from underserved communities, including through the Global Diversity Export Initiative of the U.S. Commercial Service. This mission will expand access to export opportunities to U.S. small and medium-sized businesses, including those founded, led, operated, or owned by women from industries with growing potential in Saudi Arabia.

This mission is in alignment with Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 25, 2021) (E.O. 13985), Executive Order 14091 on Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (February 22, 2022) (E.O. 14091), Executive Order 14020 on the Establishment of the White House Gender Policy Council (March 11, 2021) (E.O. 14020), and the Global Diversity Export Initiative of the U.S. Commercial Service. For the purposes of the trade mission, ITA adopts the definition of "underserved communities" in E.O. 14020, incorporated into E.O. 14091: "populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of "equity." "Equity" is defined as "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to

underserved communities that have been denied such treatment, such as women and girls; Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality." This trade mission is also designed to be responsive to the priorities stated by Secretary of Commerce Gina Raimondo and outlined in the Equity Action Plan released in April 2022 which aspires to "harness the talents and strengths of all parts of the country, including women, people of color, and others who are too often left behind" including by "[s]trengthen[ing] small businesses in underserved communities by helping them be successful exporters".

Women own 12 million businesses in the United States, employing more than 10 million workers. According to the U.S. Small Business Administration's Office of Advocacy (citing the 2018 Census Bureau's Annual Business Survey, latest data available), women-owned businesses contributed \$2.1 trillion in total sales to the U.S. economy and \$388 billion in annual payroll. The 2020 Census Bureau's Annual Business Survey included top sectors for women-owned employer firms: (1) healthcare and social assistance at approximately 216,000 women-owned employer firms; (2) professional, scientific and technical services at approximately 207,000 women-owned employer firms, and (3) retail trade at approximately 137,000 women-owned employer firms.

Despite these promising statistics, women-owned businesses face unique obstacles in accessing overseas markets, including difficulty obtaining financing and lack knowledge about export opportunities. According to the most recent Census data (2021), from a sample of approximately 146,000 firms that export, 15% are women-owned. This mission is designed to assist U.S. small and medium-sized business that are founded, led, operated, or owned by women to find partners and begin or expand their exports in Saudi Arabia, however recruitment and consideration will be extended to all export-ready U.S. companies, including small businesses, trade associations and other exporting organizations that meet the established criteria for participation in the mission.

On Sunday, December 8th, trade mission participants will attend a trade mission briefing, business-to-business

(B2B) appointments, and a networking reception. On Monday, December 9th, participants will engage in a networking breakfast, B2B appointments, and networking lunch with key service providers and U.S. diplomats and/or industry specialists, to obtain information and material on trade-related resources. On Tuesday, December 10th, selected participants will join the optional stop in Jeddah to participate in B2B meetings with pre-screened potential buyers, agents, distributors, or joint-venture partners. On Wednesday, December 11th, selected participants will join the optional stop in Dhahran to participate in B2B meetings with pre-screened potential buyers, agents, distributors, or joint-venture partners.

The combination of B2B matchmaking opportunities in Riyadh, Jeddah, and Dhahran will provide participants with substantive information on strategies for entering or expanding their business in Saudi Arabia, key contacts with Commercial Service officers and local staff, and networking opportunities to build vital business relationships.

### Commercial Setting

The United States and Saudi Arabia share common interests in strengthening economic growth, prosperity, and competitiveness in the Middle East. Saudi Arabia's Vision 2030 economic diversification initiatives are generating opportunities for U.S. companies across industry sectors. Today, the \$54 billion U.S.-Saudi Arabia trade and investment relationship creates thousands of jobs in both countries. In 2020, U.S. goods exports to Saudi Arabia exceeded \$10.9 billion, and U.S. imports were just over \$9 billion according to the U.S. Census Bureau. U.S. services exports were \$10.3 billion, and imports were \$1.2 billion. According to the Commerce Department's Bureau of Economic Analysis, U.S. foreign direct investment (FDI) in Saudi Arabia increased from \$11.1 million in 2019 to \$11.4 million in 2020. Saudi Arabia is the largest country in the Gulf region with a population of over 35 million, and the largest economy in the Arab World with a GDP of \$832.4 billion as of December 31, 2021. Saudi Arabia has made strong commitments to supporting women and women-owned business. As part of Vision 2030's Human Capability Development Program and National Transformation Program, women's empowerment is a top priority of social reform. Greater access to education and jobs is making the Kingdom a more inclusive society.

Vision 2030 was the first phase in a long-term strategy. Broadly, the Vision

2030 goal was setting the foundation for building non-oil economy composed of three general objectives (1) Catalyzing investment in emerging and high growth sectors (2) Unlocking local factors of production—including Saudis nationals in the economy (3) Creating an attractive environment for foreign direct investment.

As we get close to the midway point of Vision 2030, Saudis will start talking about Vision 2040, the next 10-year plan, which will focus on solidifying and scaling up gains from Vision 2030 in a sustainable way. The key factors will be developing economic productivity and competitiveness through upskilling, scaling up investments in key sectors and developing SMEs in the economy and building sustainability throughout.

### Country Information

#### Why Saudi Arabia

Key reasons why U.S. companies should consider exporting to Saudi Arabia:

1. Saudi Arabia's Vision 2030 is a paradigm shift from a public sector-driven economy to one the state intends will be driven by the private sector as the main engine for economic growth and job creation.

2. Vision 2030 has created opportunities for U.S. companies across all industry sectors—particularly ICT, renewable energy, financial services, aerospace, transportation and logistics, healthcare, education and vocational training, infrastructure, entertainment, and tourism—including through the mega-projects (NEOM, Qiddiya, Amaala, Red Sea, and Diriyah Gate).

3. Saudi Arabia aims to become a major transport and logistics hub linking Asia, Europe, and Africa.

4. Consumer attitudes and brand preferences are like those in the United States. U.S. goods and services enjoy a reputation for high quality and durability in the country.

5. This sweeping range of reforms has expanded women's rights and economic empowerment, reformed the education system, sharply reduced the influence of the religious establishment, and tightened restrictions on extremist or intolerant religious messaging. Women can now drive, work, and travel independently, and they increasingly hold senior positions in the public and private sectors.

6. Female workforce participation has risen from 17.4 percent in 2017 to 37 percent today—a higher rate than in Türkiye, an OECD country. The first female Saudi astronaut embarked on a commercial mission to the International

Space Station in May—a remarkable feat in a country where women were not allowed to drive a car just five years ago.

### Other Products and Services

Best prospect sectors for U.S. companies in Saudi Arabia are not intended to be exhaustive, but illustrative of the many opportunities available to U.S. businesses. Applications from firms selling products or services within the scope of this mission, but not specifically identified, will be considered and evaluated by the U.S. Department of Commerce. Firms whose products or services do not fit the mission's scope may contact their local U.S. Export Assistance Center (USEAC) to learn about other business development missions and services that may provide more targeted export opportunities. Firms may call 1-800-872-8723, or go to <https://www.trade.gov/contact-us> to obtain such information. This information also may be found on the website: <https://www.trade.gov/>.

### Mission Goals

Recruitment and consideration will be extended to all export-ready U.S. companies, including small businesses, trade associations and other exporting organizations that meet the established criteria for participation in the mission. The goal of the mission is to help participating U.S. small and medium-sized businesses that are founded, led, operated, or owned by women, find potential business opportunities, partners, buyers, agents, distributors, and joint venture partners in Saudi Arabia, laying the foundation for successful long-term ventures to take advantage of market opportunities in Saudi Arabia. During the mission, the delegation will have access to U.S. and Foreign Commercial Service (US&FCS) officers and specialists from Saudi Arabia. They will learn about the many business opportunities in Saudi Arabia and gain first-hand market exposure. Trade mission participants already doing business in Saudi Arabia will be able to further advance business relationships and explore new opportunities.

### Mission Scenario & Timetable

The mission fee will include country market briefings, logistics support, B2B appointments with pre-screened potential business partners in Riyadh, Saudi Arabia, with two optional stops in Jeddah and Dhahran, Saudi Arabia.

On Sunday, December 8th, trade mission participants will attend a trade mission briefing, B2B appointments, and a networking reception. On

Monday, December 9th, participants will engage in a networking breakfast, B2B appointments, and networking lunch with key service providers and U.S. diplomats and/or industry specialists, to provide information and material on trade-related resources. On Tuesday, December 10th, selected

participants will join the optional stop in Jeddah to participate in B2B meetings with pre-screened potential buyers, agents, distributors, or joint-venture partners. On Wednesday, December 11th, selected participants will join the optional stop in Dhahran to participate in B2B meetings with pre-screened

potential buyers, agents, distributors, or joint-venture partners.

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

|                        |  |
|------------------------|--|
| December 7, 2024 ..... | Travel Day/Arrival in Riyadh, Saudi Arabia.  |
| December 8, 2024 ..... | Riyadh, Saudi Arabia<br><i>Morning:</i> Trade Mission Briefing <i>Afternoon:</i> B2B Meetings<br><i>Evening:</i> Networking Reception. |
| December 9, 2024 ..... | Riyadh, Saudi Arabia<br><i>Morning:</i> Networking Breakfast<br><i>Afternoon:</i> Networking Lunch and B2B Meetings.                   |
| December 10, 2024 ...  | <i>Optional Stop:</i> Travel to Jeddah. B2B Meetings in Jeddah, Saudi Arabia.  |
| December 11, 2024 ...  | <i>Optional Stop:</i> Travel to Dhahran B2B Meetings in Dhahran, Saudi Arabia.   |

### Participation Requirements

All parties interested in participating in the U.S. Department of Commerce GDEI Trade Mission to Saudi Arabia must complete and submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 20 and a maximum of 30 firms and/or trade associations will be selected to participate in the mission on a first come, first served basis. During the registration process, applicants will be able to select the cities for which they would like to receive a brief market assessment. Upon receipt of market assessment reports, they will be able to select up to two optional stops for B2B meetings.

All selected participants will attend the core mission stop in Riyadh, Saudi Arabia and will have the opportunity for B2B meetings in Jeddah and/or Dhahran, Saudi Arabia as an optional stop.

The maximum number of firms that may be selected for B2B meetings in Jeddah, Saudi Arabia as an optional stop is 10 companies.

The maximum number of firms that may be selected for B2B meetings in Dhahran, Saudi Arabia as an optional stop is 10 companies.

The trade mission is open to U.S. firms already doing business in Saudi Arabia who are seeking to expand their market share and to those U.S. firms new to these markets.

### Fees and Expenses

After a firm or trade association is selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. Up to two cities can be selected for B2B meetings.

The fees are as follow:

The mission participation fee for mission stop in Riyadh, Saudi Arabia, will be \$1,995 for a small or medium-sized enterprises (SME) [1] and \$2,906 for large firms.

The mission participation fee for the optional mission stop in Jeddah, Saudi Arabia is \$1,499 for a small or medium-sized enterprise (SME) [1] and \$2,055 for large firms.

The mission participation fee for the optional mission stop in Dhahran, Saudi Arabia is \$1,499 for a small or medium-sized enterprise (SME) [1] and \$2,055 for large firms.

The fee for additional small or medium-sized enterprise (SME) [1] or large firm representative is \$750.

If and when an applicant is selected to participate in a particular mission, a payment to the Department of Commerce in the amount of the designated participation fee above is required. Upon notification of acceptance, those selected have five business days to submit payment or the acceptance may be revoked.

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

If a visa is required to travel on a particular mission, applying for and obtaining such a visa will be the responsibility of the mission participant. Government fees and

processing expenses to obtain such a visa are not included in the participation fee. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain business visas.

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

Any question regarding insurance coverage must be resolved by the participant and its insurer of choice.

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

### *Timeframe for Recruitment and Applications*

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar on [www.trade.gov](http://www.trade.gov), the Global Diversity Export Initiative web page at <https://www.trade.gov/global-diversity-export-initiative-events>, and other internet websites, press releases to the general and trade media, direct mail and broadcast fax, notices by industry trade associations and other multiplier groups and announcements at industry meetings, symposia, conferences, and trade shows. The Commerce Department may also work with the U.S. Small Business Administration and the Organization of Women in International Trade to promote the mission. Recruitment for the mission will begin immediately and conclude no later than Friday, September 06, 2024. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis until the maximum of 30 participants are selected. After Friday, September 06, 2024, companies will be considered only if space and scheduling constraints permit.

### *Contacts*

*U.S. Global Diversity Export Initiative Contact Information*, Gabriela Zelaya, Acting Director/Global Diversity Export Initiative, U.S. Commercial Service San Jose, CA, Email: [Gabriela.Zelaya@trade.gov](mailto:Gabriela.Zelaya@trade.gov), Tel: (408) 335-9202

*Middle East & Africa Global Team Contact Information*, Larry Tabash, Global Team Leader, Middle East & Africa Team, U.S. Commercial Service Austin, TX, [Larry.Tabash@trade.gov](mailto:Larry.Tabash@trade.gov), Tel: (512) 936-0039

*Commercial Service Kingdom of Saudi Arabia Contact Information*, Andrew Billard, Senior Commercial Officer, U.S. Embassy Saudi Arabia, Email: [Andrew.Billard@trade.gov](mailto:Andrew.Billard@trade.gov),

Carla Menéndez, Deputy Senior Commercial Officer, U.S. Embassy Saudi Arabia, Email: [Carla.Menendez@trade.gov](mailto:Carla.Menendez@trade.gov)

### **Gemal Brangman,**

*Director, Global Trade Programs.*

[FR Doc. 2024-04867 Filed 3-6-24; 8:45 am]

**BILLING CODE 3510-DR-P**

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration [A-580-902]**

#### **Utility Scale Wind Towers From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2021-2022**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) determines that utility scale wind towers (wind towers) from the Republic of Korea (Korea) were sold in the United States at less than normal value during the period of review (POR) August 1, 2021, through July 31, 2022.

**DATES:** Applicable March 7, 2024.

**FOR FURTHER INFORMATION CONTACT:** Adam Simons, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6172.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

This review covers one producer/exporter of the subject merchandise, Dongkuk S&C Co., Ltd. (Dongkuk). On September 6, 2023, Commerce published the *Preliminary Results* and invited interested parties to comment.<sup>1</sup> For a summary of the events that occurred since the *Preliminary Results*, as well as a full discussion of the issues raised by parties for these final results, see the Issues and Decision Memorandum.<sup>2</sup> Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

#### **Scope of the Order<sup>3</sup>**

The merchandise subject to the *Order* is wind towers. The product is currently

<sup>1</sup> See *Utility Scale Wind Towers from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2021-2022*, 88 FR 60929 (September 6, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Results of the 2021-2022 Administrative Review of the Antidumping Duty Order on Utility Scale Wind Towers from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 55811 (October 7, 2021); see also *Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 85 FR 52546 (August 26, 2020) (*Order*).

classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000 and may also be classified under HTSUS subheading 7308.20.0020 or 8502.31.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description remains dispositive.<sup>4</sup>

#### **Analysis of Comments Received**

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum and are listed in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### **Changes Since the Preliminary Results**

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we made certain adjustments to the calculation of Dongkuk's general and administrative expense and indirect selling expense ratios. We note that these changes have no measurable impact on the preliminary weighted-average dumping margin calculated for Dongkuk.

#### **Finals Results of Review**

We determine that the following weighted-average dumping margin exists for the the period, February 14, 2020, through July 31, 2021:

| Producer/exporter          | Weighted-average dumping margin (percent) |
|----------------------------|---|
| Dongkuk S&C Co., Ltd ..... | 1.95                                      |

#### **Disclosure of Calculations**

We intend to disclose the calculations performed for Dongkuk to interested parties in this proceeding within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

#### **Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1),

<sup>4</sup> For a complete description of the scope of the *Order*, see the *Preliminary Results* PDM.

Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), Dongkuk reported the entered value of its U.S. sales such that we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's "automatic assessment" practice will apply to entries of subject merchandise during the POR produced by Dongkuk for which the company did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate of 5.41 percent if there is no rate for the intermediate company(ies) involved in the transaction.<sup>5</sup>

Commerce intends to issue liquidation instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be equal to the weighted-

average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.41 percent, the all-others rate established in the LTFV investigation.<sup>6</sup> These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 1, 2024.

**Ryan Majerus,**

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

#### Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Results*
- IV. Discussion of the Issues
  - Comment 1: Whether Commerce Should Revise Its Steel Plate Cost Smoothing Adjustment for Dongkuk
  - Comment 2: Whether Commerce Should Reallocate and Adjust Certain Expenses in Dongkuk's General and Administrative (G&A) Expense Ratio Calculation
  - Comment 3: Whether to Adjust Dongkuk's Conversion Costs
  - Comment 4: Dongkuk's Packing Expenses
  - Comment 5: Whether Commerce Should Increase Dongkuk's Cost of Production (COP)
  - Comment 6: Adjusting Dongkuk's Scrap Offset Based on Amount of Plate Consumed
  - Comment 7: Whether Commerce Should Request Information for Constructed Value (CV) Profit and Selling Expenses
- V. Recommendation

[FR Doc. 2024–04881 Filed 3–6–24; 8:45 am]

BILLING CODE 3510–DS–P

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[RTID 0648–XD703]

##### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the U.S. Coast Guard's Alaska Facility Maintenance and Repair Activities

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

**ACTION:** Notice. Issuance of letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the United States Coast Guard (Coast Guard), for the unintentional taking of marine mammals incidental to maintenance and repair at facilities in Alaska, over the course of 5 years (2024–2029).

**DATES:** This LOA is effective from March 1, 2024, through February 28, 2029.

<sup>5</sup> See *Order*; and *Utility Scale Wind Towers from Canada, Indonesia, the Republic of Korea, and the Socialist Republic of Vietnam: Notice of Correction to the Antidumping Duty Orders*, 85 FR 56213 (September 11, 2020) (correcting the date that the provisional measures period expired). For a full discussion of the "automatic assessment" practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>6</sup> See *Order*, 85 FR at 52547.

**ADDRESSES:** The LOA and supporting documentation are available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-coast-guards-alaska-facility-maintenance-and-repair>. In case of problems accessing these documents, please call the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to as “mitigation”); and requirements pertaining to the mitigation, monitoring, and reporting of the takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which: (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the

wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

**Summary of Request**

On December 20, 2023, we issued a final rule upon request from the Coast Guard for authorization to take marine mammals incidental to construction activities (88 FR 87937). The Coast Guard plans to conduct construction activities for pier maintenance and repair at eight facilities in Alaska. This construction will include use of vibratory pile driving and removal, impact pile driving, and down-the-hole (DTH) drilling. The use of vibratory and impact pile driving and DTH drilling is expected to produce underwater sound at levels that have the potential to result in Level A and Level B harassment of marine mammals.

**Authorization**

We have issued a LOA to Coast Guard authorizing the take of marine mammals incidental to construction activities, as described above. Take of marine mammals will be minimized through the implementation of the following planned mitigation measures: (1) required monitoring of the construction area to detect the presence of marine mammals before beginning construction activities; (2) shutdown of construction activities under certain circumstances to avoid injury of marine mammals; and (3) soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to beginning impact pile driving at full power. Additionally, the rule includes an adaptive management component that allows for timely modification of mitigation or monitoring measures based on new information, when appropriate. The Coast Guard will submit reports as required.

Based on these findings and the information discussed in the preamble to the final rule, the activities described under this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses.

Dated: March 1, 2024.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2024–04793 Filed 3–6–24; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF ENERGY**

**Notice of Availability of the Draft Environmental Impact Statement for Department of Energy Activities in Support of Commercial Production of High-Assay Low-Enriched Uranium (HALEU)**

**AGENCY:** Office of Nuclear Energy, U.S. Department of Energy.

**ACTION:** Notice of availability and public hearings.

**SUMMARY:** The U.S. Department of Energy (DOE) announces the availability of the *Draft Environmental Impact Statement for Department of Energy Activities in Support of Commercial Production of High-Assay Low-Enriched Uranium (HALEU)* (Draft HALEU EIS) (DOE/EIS–0559). DOE is also announcing a public comment period and public hearings to receive comments on the Draft HALEU EIS. DOE prepared the Draft HALEU EIS to evaluate the potential environmental impacts of DOE’s Proposed Action for the acquisition of HALEU produced by a commercial entity using enrichment technology and making it available for commercial use or demonstration projects.

**DATES:** Comments will be accepted during the comment period, which will extend for 45 days after the date that the U.S. Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register** March 8, 2024. DOE plans to hold three public hearings on the Draft HALEU EIS. DOE will host internet-based, virtual public hearings in place of in-person hearings. The dates of the hearings will be on Wednesday, April 3, 2024, at 6:00 p.m. ET, 8:00 p.m. ET, and 10:00 p.m. ET. Further information on the public hearings is available on the following website: <https://www.energy.gov/ne/haleu-environmental-impact-statement>. DOE will hold the hearings no earlier than 15 days from the posting of the EPA Notice of Availability.

**ADDRESSES:** DOE invites Federal and state agencies, state and local governments, Native American Tribes, industry, other organizations, and members of the public to review and submit comments on the Draft HALEU EIS. Written comments on the Draft HALEU EIS should be sent to Mr. James Lovejoy, HALEU EIS Document Manager, by mail at: U.S. Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS 1235, Idaho Falls, Idaho 83415; or by email to [HALEU-EIS@nuclear.energy.gov](mailto:HALEU-EIS@nuclear.energy.gov). The Draft HALEU EIS is available for viewing or

download at <https://www.energy.gov/ne/haleu-environmental-impact-statement>.

**FOR FURTHER INFORMATION CONTACT:** For information regarding DOE HALEU activities or the Draft HALEU EIS, visit <https://www.energy.gov/ne/haleu-availability-program> or <https://www.energy.gov/ne/haleu-environmental-impact-statement> or contact Mr. James Lovejoy at the mailing address listed in the **ADDRESSES** section or via email at [HALEU-EIS@nuclear.energy.gov](mailto:HALEU-EIS@nuclear.energy.gov) or telephone: (208) 526-4519. For general information on DOE's National Environmental Policy Act process, contact Mr. Jason Anderson at the mailing address listed in the **ADDRESSES** section or via email at [HALEU-EIS@nuclear.energy.gov](mailto:HALEU-EIS@nuclear.energy.gov) or telephone: (208) 526-0174.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Energy Act of 2020 directs the Department of Energy “to establish and carry . . . out a program to support the availability of HA–LEU for civilian domestic research, development, demonstration, and commercial use.” DOE is committed to support the development and deployment of the HALEU fuel cycle and to acquire and provide HALEU as authorized by Congress in Section 2001 of the Energy Act of 2020.

Low-enriched uranium (LEU) is enriched to less than 20% uranium-235 (U-235), the main fissile isotope that produces energy during a chain reaction. The current U.S. commercial power reactor fuel cycle is based on LEU enriched to less than 5% of U-235, but many advanced reactor designs require HALEU.

HALEU is defined as “uranium having an assay greater than 5.0 weight percent and less than 20.0 weight percent of the uranium-235 isotope” (42 U.S.C. 16281(d)(4)). In the United States, HALEU is currently made, in limited quantities, by blending down highly enriched uranium (HEU) (enriched to 20% or greater), with natural uranium or lower enriched uranium (*i.e.*, “downblending”). Anticipated demand from research reactors, isotope production facilities, and advanced nuclear reactors will require more HALEU to be manufactured for commercial purposes. The capability to downblend provides insufficient capacity to support commercialization of domestic HALEU supply. A commercial capability to produce HALEU through enrichment of natural uranium or LEU does not exist in the United States.

DOE predicts that by the mid-2020s, approximately 22 metric tons (MT) of HALEU will be needed for initial core loadings to support reactor demonstrations and DOE test and research reactors that were converted from HEU fuel. DOE also predicts a HALEU demand of between 8 and 12 MT of HALEU annually into the early 2030s increasing to over 50 MT of HALEU per year by 2035, and ultimately over 500 MT of HALEU per year by 2050. The lack of an adequate domestic, commercial fuel supply could impede both reactor demonstrations and deployment of advanced reactor technologies requiring HALEU.

As indicated by many commercial entities that responded to DOE's *Request for Information (RFI) Regarding Planning for Establishment of a Program to Support the Availability of High-Assay Low Enriched Uranium (HALEU) for Civilian Domestic Research, Development, Demonstration, and Commercial Use* (86 FR 71055, December 2021) (referred to as the “RFI”), there is a potential timing/coordination issue with developing that capability.

There is currently insufficient private incentive to invest in commercial HALEU production due to the current market base, resulting in those interested in designing, building, and operating advanced reactor designs that use HALEU fuel being hesitant to invest in the technology without a reliable source of HALEU fuel. There is also insufficient incentive to invest in the necessary commercial deployment of advanced reactors because the domestic HALEU fuel cycle does not currently exist. The Energy Act of 2020 aims to stimulate HALEU supply to support the development, demonstration, and deployment of advanced reactors in a manner that establishes a diversity of supply and healthy market forces for the future. This concern is a consistent theme in the industry responses to DOE's RFI. These responders emphasized the importance of the HALEU consortium that is called for in the Energy Act of 2020 and that DOE established on December 7, 2022 (87 FR 75048). Responders also emphasized the opportunity for DOE to be an agent for stability (both in assuring HALEU availability and market price certainty) during the initial phase of HALEU fuel production.

To address this issue, an initial public/private partnership is intended to accelerate development of a sustainable commercial HALEU supply capability. If successful, this partnership could provide the incentive for the private sector to incrementally expand

the capacity in a modular fashion as a sustainable market develops.

On June 5, 2023, the DOE Idaho Operations Office published for comment two Draft Requests for Proposals (RFPs) for: (1) HALEU enrichment capability in the United States; and (2) U.S. capabilities in HALEU deconversion to oxide, metal, or other forms (a final RFP for the deconversion RFP was published on November 28, 2023, and the final RFP for the enrichment RFP was published on January 9, 2024). Under the RFP for *Purchase of High-Assay Low-Enriched Uranium (HALEU)—Enrichment* (the “Enrichment RFP”), DOE solicited response from industry regarding DOE's proposal to acquire, through procurement from commercial sources, HALEU as uranium hexafluoride (UF<sub>6</sub>) enriched to a minimum of 19.75 and less than 20 weight percent U-235 as soon as possible to secure a more robust, longer-term HALEU production capability.

The enriched UF<sub>6</sub> must be deconverted to other forms, like oxide or metal, before it can be fabricated into HALEU fuel or put to other use. Under the RFP for the *Purchase of High-Assay Low-Enriched Uranium (HALEU)—Deconversion Services* (the “Deconversion RFP”), DOE solicited response from industry regarding DOE's proposal to acquire domestic HALEU deconversion services for HALEU and storage until future fuel fabrication.

##### **Alternatives**

The Draft HALEU EIS evaluates potential environmental impacts for the Proposed Action and the No Action Alternative. The Proposed Action is to acquire, through procurement from commercial sources, HALEU enriched to at least 19.75 and less than 20.00 weight percent U-235 over a 10-year period of performance, and to facilitate the establishment of commercial HALEU fuel production. The Proposed Action implements section 2001(a)(2)(D)(v) of the Energy Act of 2020 for the acquisition of HALEU produced by a commercial entity using enrichment technology and making it available for commercial use or demonstration projects.

This Draft HALEU EIS addresses the following activities facilitating the commercialization of HALEU fuel production and acquisition of up to 290 MT of HALEU under the Proposed Action: (1) mining, extraction, and recovery of uranium ore producing triuranium octoxide (U<sub>3</sub>O<sub>8</sub>) (from domestic or foreign in-situ recovery or conventional mining and milling sources); (2) uranium conversion from



U<sub>3</sub>O<sub>8</sub> to UF<sub>6</sub> for input to enrichment facilities; (3) enrichment in up to three steps (a) from natural uranium to LEU of no more than 5 weight percent U-235, (b) from LEU to HALEU of less than 10 weight percent U-235, and (c) to HALEU of less than 20 weight percent U-235; (4) HALEU deconversion from UF<sub>6</sub> to uranium oxide, metal, and other forms; (5) storage; (6) transportation of uranium/HALEU between facilities; and (7) DOE acquisition of HALEU of between at least 19.75 weight percent and less than 20 weight percent U-235. In addition to the activities above, the following actions could result from implementation of the Proposed Action: (1) fuel fabrication for a variety of fuel types in a U.S. Nuclear Regulatory Commission (NRC) Category II facility; (2) HALEU-fueled reactor (demonstration and test, power, isotope production) operations; and (3) spent fuel storage and disposition. While not specifically a part of the Proposed Action, these activities are reasonably foreseeable and therefore acknowledged and addressed to the extent possible in the Draft HALEU EIS.

While the Draft HALEU EIS provides information that could be used to identify impacts from the construction and operation of HALEU fuel cycle facilities, the selection of specific locations and facilities will not be a part of the Record of Decision for this EIS.

#### Preferred Alternative

The Preferred Alternative is the Proposed Action, to acquire, through procurement from commercial sources, HALEU enriched to at least 19.75 and less than 20 weight percent U-235 over a 10-year period of performance, and to facilitate the establishment of commercial HALEU fuel production. The No Action Alternative would not implement the Proposed Action, leaving development of a domestic commercial supply of HALEU to industry or industry would remain reliant on foreign supplies of HALEU, contrary to Congressional direction under section 2001 of the Energy Act of 2020.

#### Virtual Public Hearings

DOE will host three interactive, virtual public hearings during the public comment period on Wednesday, April 3, 2024, at 6 p.m. ET, 8 p.m. ET, and 10 p.m. ET. During these public hearings, DOE will give a brief presentation on the Draft HALEU EIS, followed by a period during which DOE will accept oral comments on the Draft HALEU EIS. Parties interested in providing oral comments are encouraged to preregister for the public hearings and indicate their desire to

comment. Oral comments will be transcribed. Written comments on the Draft HALEU EIS may also be submitted during the public comment period as indicated under the **ADDRESSES** section. All comments, received before the end of the comment period, whether oral or written, will be considered by DOE as the HALEU EIS is finalized. DOE will post information regarding the public hearings on the HALEU EIS website at <https://www.energy.gov/ne/haleu-environmental-impact-statement>. The hearings will also be announced in newspapers.

#### Signing Authority

This document of the Department of Energy was signed on March 1, 2024, by Dr. Kathryn Huff, Assistant Secretary for Nuclear Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by the Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Energy Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 1, 2024.

**Treena V. Garrett,**

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

[FR Doc. 2024-04799 Filed 3-6-24; 8:45 am]

**BILLING CODE 6450-01-P**

#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

[Project No. 5867-054]

##### Alice Falls Hydro, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a new license to continue to operate and maintain the Alice Falls Hydroelectric Project No. 5867 (project). The project is located on the Ausable River in Clinton and Essex counties, New York. Commission staff

has prepared an Environmental Assessment (EA) for the project.

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA 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. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or at (866) 208-3676 (toll-free), or (202) 502-8659 (TTY).

You may also register online at <https://ferconline.ferc.gov/FERCOnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595, or [OPP@ferc.gov](mailto:OPP@ferc.gov).

Any comments should be filed within 45 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCOnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A.



Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-5867-054.

For further information, contact Kelly Wolcott at 202-502-6480 or [kelly.wolcott@ferc.gov](mailto:kelly.wolcott@ferc.gov).

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*

[FR Doc. 2024-04804 Filed 3-6-24; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC24-54-000.

*Applicants:* Public Service Company of New Mexico, Arroyo Solar LLC.

*Description:* Joint Application for Authorization Under Section 203 of the Federal Power Act of Public Service Company of New Mexico, et al.

*Filed Date:* 2/28/24.

*Accession Number:* 20240228-5265.

*Comment Date:* 5 p.m. ET 3/20/24.

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG24-122-000.

*Applicants:* Flatland Storage LLC.

*Description:* Flatland Storage LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5166.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* EG24-123-000.

*Applicants:* Hickory Solar LLC.

*Description:* Hickory Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5178.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* EG24-124-000.

*Applicants:* Ragsdale Solar, LLC.

*Description:* Ragsdale Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5180.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* EG24-125-000.

*Applicants:* Randolph Solar Park LLC.

*Description:* Randolph Solar Park LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5183.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* EG24-126-000.

*Applicants:* Wolf Run Solar LLC.

*Description:* Wolf Run Solar LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5188.

*Comment Date:* 5 p.m. ET 3/21/24.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER22-1525-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Refund Report: People's—Refund Report in Response to Order in ER-22-1525 to be effective N/A.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5031.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-965-001.

*Applicants:* Versant Power.

*Description:* Tariff Amendment: Pause Cancellation of PERC IA (ER24-965-) to be effective 5/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5215.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1361-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to WMPA, SA No. 6254; Queue No. AD2-135 to be effective 4/29/2024.

*Filed Date:* 2/28/24.

*Accession Number:* 20240228-5236.

*Comment Date:* 5 p.m. ET 3/20/24.

*Docket Numbers:* ER24-1362-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Revisions to the GI Procedures to Increase Study Deposits (RR 603) to be effective 5/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5033.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1363-000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 1313R18 Oklahoma Gas and Electric Company NITSA and NOA to be effective 2/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5078.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1366-000.

*Applicants:* Tumbleweed Energy, LLC.

*Description:* Initial rate filing: Market-Based Rate Application and Requests for Waivers and Blanket Approvals to be effective 3/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5097.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1367-000.

*Applicants:* Northern States Power Company, a Minnesota corporation.

*Description:* § 205(d) Rate Filing: 2024.02.29 CAPX2020 Brookings2 Joint Dev Agmt 749-NSP to be effective 2/2/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5120.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1368-000.

*Applicants:* Ameren Illinois Company.

*Description:* § 205(d) Rate Filing: Notices of Cancellation to be effective 8/13/2023.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5131.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1369-000.

*Applicants:* New England Power Pool Participants Committee.

*Description:* § 205(d) Rate Filing: Mar 2024 Membership Filing to be effective 3/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5222.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1370-000.

*Applicants:* Morgantown Power, LLC.

*Description:* Tariff Amendment: Notice of Cancellation of Reactive Service Rate Schedule to be effective 6/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5224.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1371-000.

*Applicants:* Atrisco Solar SF LLC.

*Description:* Petition for Waivers and Blanket Authorization under Section 204 of Atrisco Solar SF LLC.

*Filed Date:* 2/28/24.

*Accession Number:* 20240228-5273.

*Comment Date:* 5 p.m. ET 3/20/24.

*Docket Numbers:* ER24-1373-000.

*Applicants:* Lanyard Power Holdings, LLC.

*Description:* Tariff Amendment: Notice of Cancellation of Reactive Service Rate Schedule to be effective 6/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5237.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24-1374-000.

*Applicants:* Sierra Estrella Energy Storage LLC.

*Description:* Baseline eTariff Filing: Application for MBR Authorization and Request for Waivers to be effective 4/30/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229-5252.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* ER24–1375–000.

*Applicants:* Superstition Energy Storage LLC.

*Description:* Baseline eTariff Filing: Application for MBR Authorization and Request for Waivers to be effective 4/30/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229–5258.

*Comment Date:* 5 p.m. ET 3/21/24.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*

[FR Doc. 2024–04810 Filed 3–6–24; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 4472–031]

#### Union Falls Hydropower, L.P.; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 4472–031.

c. *Date Filed:* June 30, 2022.

d. *Applicant:* Union Falls Hydropower, L.P. (Union Falls).

e. *Name of Project:* Saranac Hydroelectric Project (Saranac Project or project).

f. *Location:* The existing project is located on the Saranac River in Franklin and Clinton Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Ms. Sherri Loon, Coordinator—Operations USA, Kruger Energy, 423 Brunswick Ave., Gardiner, ME 04345; phone: (207) 203–3026; email: [Sherri.Loan@kruger.com](mailto:Sherri.Loan@kruger.com).

i. *FERC Contact:* Joshua Dub at (202) 502–8138, or email at [joshua.dub@ferc.gov](mailto:joshua.dub@ferc.gov).

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FEROnlineSupport@ferc.gov](mailto:FEROnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A.

Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Saranac Hydroelectric Project (P–4472–031).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The Saranac Project includes a 520.5-foot-long concrete dam that includes: (1) a 198-foot-long west abutment; (2) a 36.5-foot-long, 29.7-foot-high intake structure with two 15.25-foot-wide, 14.62-foot-high headgates that each control flow to a 10.5-foot-wide, 8-foot-high intake opening equipped with a 12-foot-wide, 25-foot-high trashrack with 1-inch clear bar spacing; (3) a 151-foot-long, 24-foot-high section with a 147-foot-long ogee spillway with 1-foot-high flashboards that have a crest elevation of 1,409.49 feet National Geodetic Vertical Dam of 1929 (NGVD 29), and two 5-foot-wide, 5-foot-high low-level outlet gates; and (4) a 135-foot-long east abutment. The dam creates an impoundment that has a surface area of approximately 1,630 acres at an elevation of 1409.49 feet NGVD 29.

From the impoundment, water flows through the intake structure to a 1,433-foot-long, 11-foot-diameter steel penstock that bifurcates into two 71-foot-long, 7-foot-diameter gated sections. The penstock is equipped with a 30-foot-high, 2.5-foot-diameter surge vent that is located in a 15-foot-wide, 15-foot-long wooden vent house located approximately 550 feet downstream of the intake structure.

The penstock conveys water to two 1.3-megawatt (MW) horizontal Kaplan turbine-generator units located in an approximately 62-foot-wide, 40-foot-long concrete and masonry powerhouse that has a total installed capacity of 2.6 MW. Water is discharged from the turbines through draft tubes to an approximately 50-foot-long tailrace that discharges to the Saranac River. The project creates an approximately 1,840-foot-long bypassed reach.

The project includes a 36.5-foot-wide, 17-foot-high intake gatehouse at the

intake structure. The project generators are connected to the regional electric grid by a 90-foot-long, 4.16-kilovolt (kV) underground transmission line and a 4.16/46-kV step-up transformer. There are no project recreation facilities.

The minimum and maximum hydraulic capacities of the powerhouse are 100 and 710 cubic feet per second (cfs), respectively. The average annual energy production of the Saranac Project from 2017 through 2023 was 783 megawatt-hours.

The current license requires Union Falls to install flashboards annually by the first week of June, unless flow conditions warrant otherwise. From October through May, the license requires Union Falls to maintain the surface elevation of the impoundment at the spillway crest elevation of 1,408.49 feet NGVD 29, with a maximum daily drawdown of 3 inches and a maximum total drawdown of 6 inches below the crest. From June through September, the license requires Union Falls to maintain the surface elevation of the impoundment at the flashboard crest elevation of 1,409.49 feet NGVD 29, with a maximum daily drawdown of 3 inches and a maximum total drawdown of 6 inches below the crest.

The current license requires the following minimum flow releases from the project dam: (1) 30 cfs from April 1 through June 30; and (2) 10 cfs from July 1 through March 31. The current license also requires a minimum flow of 165 cfs or inflow to the impoundment, whichever is less, from the project to the Saranac River downstream of the tailrace, including the minimum flow releases from the project dam. Union Falls releases the minimum bypassed reach flows through the low-level outlet gates in the project dam.

Union Falls does not propose to add any new project facilities or make any changes to the project boundary.

On August 3, 2023, Union Falls filed a Settlement Agreement for the project's relicensing proceeding, on behalf of itself; the U.S. Fish and Wildlife Service; the New York State Department of Environmental Conservation; and Trout Unlimited. As part of the Settlement Agreement, Union Falls proposes to: (1) operate the project in a run-of-river mode, such that outflow from the project approximates inflow to the impoundment at any given time and the surface elevation of the impoundment is maintained within 1 inch of the crest of the spillway or flashboards, if present; (2) release a year-round minimum flow of 50 cfs or inflow to the impoundment, whichever is less, from the project dam to the bypassed reach; (3) release a minimum flow of 165 cfs or inflow to

the impoundment, whichever is less, to the Saranac River downstream of the tailrace, including minimum flow releases from the project dam; (4) continue to maintain 1-inch trashracks to protect fish; (5) develop an operation compliance monitoring plan; (6) install directional signage for the canoe portage trail and tailrace parking area; and (7) implement the following plans filed with the Settlement Agreement: Bald Eagle Management Plan, Invasive Species Management Plan, and Impoundment Drawdown Plan.

m. A copy of the application can be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).

You may also register online at <https://ferconline.ferc.gov/FERCOnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For

assistance, contact FERC Online Support.

n. *The applicant must file no later than 60 days following the date of issuance of this notice:* (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

o. *Procedural Schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

| Milestone   | Target date |
|---|-------------|
| Filing of Comments, Recommendations, Terms and Conditions, and Prescriptions. | April 2024. |
| Filing of Reply Comments ....   | June 2024.  |

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*

[FR Doc. 2024-04809 Filed 3-6-24; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP24-60-000]

#### Northern Natural Gas Company; Notice of Application and Establishing Intervention Deadline

Take notice that on February 16, 2024, Northern Natural Gas Company (Northern Natural), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed an application under sections 7(b) and 7(c) of the Natural Gas Act (NGA), and part 157 of the Commission's regulations requesting authorization for its Northern Lights 2025 Expansion Project (Project). The Project consists of approximately 8.62 miles of natural gas pipeline of multiple diameters at different locations, modifications to its existing La Crescent Compressor Station, appurtenant facilities, and the abandonment by removal of approximately 275 feet of its existing 30-inch-diameter MNB87703 Elk River 3rd branch line. The Project will provide an additional 46,064 dekatherms per day (Dth/d) of firm transportation capacity for residential, commercial, and industrial customer markets in Northern Natural's market area. Northern Natural estimates the total cost of the Project to be \$60,678,722, all as more fully set forth

in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page ([www.ferc.gov](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. Public access to records formerly available in the Commission's physical Public Reference Room, which was located at the Commission's headquarters, 888 First Street NE, Washington, DC 20426, are now available via the Commission's website. For assistance, contact the Federal Energy Regulatory Commission at [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676 or TTY (202) 502-8659.

Any questions regarding the proposed project should be directed to Donna Martens, Senior Regulatory Analyst, P.O. Box 3330, Omaha, Nebraska 68103, by telephone at (402) 398-7138 or by email at [donna.martens@nngco.com](mailto:donna.martens@nngco.com).

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,<sup>1</sup> within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

### Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening.

The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on March 21, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).

### Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

### Protests

Pursuant to sections 157.10(a)(4)<sup>2</sup> and 385.211<sup>3</sup> of the Commission's regulations under the NGA, any person<sup>4</sup> may file a protest to the application. Protests must comply with the requirements specified in section 385.2001<sup>5</sup> of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before March 21, 2024.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP24-60-000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at [www.ferc.gov](http://www.ferc.gov) under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website ([www.ferc.gov](http://www.ferc.gov))

under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP24-60-000).

*To file via USPS:* Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

*To file via any other courier:* Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov).

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. *However, the filing of a comment alone will not serve to make the filer a party to the proceeding.* To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

### Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,<sup>6</sup> has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure<sup>7</sup> and the regulations under

<sup>1</sup> 18 CFR (Code of Federal Regulations) 157.9.

<sup>2</sup> 18 CFR 157.10(a)(4).

<sup>3</sup> 18 CFR 385.211.

<sup>4</sup> Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

<sup>5</sup> 18 CFR 385.2001.

<sup>6</sup> 18 CFR 385.102(d).

<sup>7</sup> 18 CFR 385.214.

the NGA<sup>8</sup> by the intervention deadline for the project, which is March 21, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24–60–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24–60–000.

*To file via USPS:* Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

*To file via any other courier:* Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or [FercOnlineSupport@ferc.gov](mailto:FercOnlineSupport@ferc.gov).

Protests and motions to intervene must be served on the applicant either by mail or email at: Donna Martens, Senior Regulatory Analyst, P.O. Box 3330, Omaha, Nebraska 68103 or by email at [donna.martens@nngco.com](mailto:donna.martens@nngco.com). Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the

service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed<sup>9</sup> motions to intervene are automatically granted by operation of Rule 214(c)(1).<sup>10</sup> Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.<sup>11</sup> A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

### Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at [www.ferc.gov](http://www.ferc.gov) using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to [www.ferc.gov/docs-filing/esubscription.asp](http://www.ferc.gov/docs-filing/esubscription.asp).

*Intervention Deadline:* 5:00 p.m. Eastern Time on March 21, 2024.

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*

[FR Doc. 2024–04802 Filed 3–6–24; 8:45 am]

**BILLING CODE 6717–01–P**

<sup>9</sup> The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

<sup>10</sup> 18 CFR 385.214(c)(1).

<sup>11</sup> 18 CFR 385.214(b)(3) and (d).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

#### Filings Instituting Proceedings

*Docket Numbers:* PR24–53–000.

*Applicants:* Enable Oklahoma Intrastate Transmission, LLC.

*Description:* § 284.123(g) Rate Filing: EOIT Revised Fuel Percentages 2–28–24 to be effective 4/1/2024.

*Filed Date:* 2/28/24.

*Accession Number:* 20240228–5224.

*Comment Date:* 5 p.m. ET 3/20/24.

*§ 284.123(g) Protest:* 5 p.m. ET 4/29/24.

*Docket Numbers:* PR24–54–000.

*Applicants:* Bay Gas Storage Company, LLC.

*Description:* § 284.123 Rate Filing: Bay Gas Storage Annual Adjustment to Company Use Percentage Filing to be effective 3/1/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229–5050.

*Comment Date:* 5 p.m. ET 3/21/24.

*Docket Numbers:* PR24–55–000.

*Applicants:* Atmos Energy Corporation.

*Description:* § 284.123(g) Rate Filing: Baseline Filing of Statement of Operating Conditions to be effective 2/29/2024.

*Filed Date:* 2/29/24.

*Accession Number:* 20240229–5066.

*Comment Date:* 5 p.m. ET 3/21/24.

*§ 284.123(g) Protest:* 5 p.m. ET 4/29/24.

*Docket Numbers:* RP24–432–000.

*Applicants:* RH energytrans, LLC.

*Description:* Request for Waiver of Requirement to File FL&U Percentage Adjustment of RH energytrans, LLC.

*Filed Date:* 2/27/24.

*Accession Number:* 20240227–5231.

*Comment Date:* 5 p.m. ET 3/11/24.

*Docket Numbers:* RP24–440–000.

*Applicants:* Algonquin Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 3–1–24 to be effective 3/1/2024.

*Filed Date:* 2/28/24.

*Accession Number:* 20240228–5237.

*Comment Date:* 5 p.m. ET 3/11/24.

*Docket Numbers:* RP24–441–000.

*Applicants:* Adelphia Gateway, LLC.

*Description:* Compliance filing: Adelphia Gateway Refund Report Filing to be effective N/A.

*Filed Date:* 2/28/24.

<sup>8</sup> 18 CFR 157.10.

*Accession Number:* 20240228–5242.  
*Comment Date:* 5 p.m. ET 3/11/24.  
*Docket Numbers:* RP24–442–000.  
*Applicants:* Equitrans, L.P.  
*Description:* § 4(d) Rate Filing: 3–1–2024 Formula Based Negotiated Rates to be effective 3/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5010.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–443–000.  
*Applicants:* Equitrans, L.P.  
*Description:* § 4(d) Rate Filing: Amended Negotiated Rate Agreement—3/1/2024 to be effective 3/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5011.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–444–000.  
*Applicants:* Equitrans, L.P.  
*Description:* § 4(d) Rate Filing: AVC Storage Loss Retainage Factor Update—2024 to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5012.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–445–000.  
*Applicants:* Texas Eastern Transmission, LP.  
*Description:* § 4(d) Rate Filing: Negotiated Rates—Chevron to Colonial Energy eff 3–1–24 to be effective 3/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5038.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–446–000.  
*Applicants:* Columbia Gas Transmission, LLC.  
*Description:* § 4(d) Rate Filing: CCRM 2024 to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5053.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–447–000.  
*Applicants:* MarkWest Pioneer, L.L.C.  
*Description:* § 4(d) Rate Filing: Quarterly Fuel Adjustment Filing—Clone to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5060.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–448–000.  
*Applicants:* KPC Pipeline, LLC.  
*Description:* § 4(d) Rate Filing: Fuel Reimbursement Adjustment to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5073.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–449–000.  
*Applicants:* Alliance Pipeline L.P.  
*Description:* § 4(d) Rate Filing: Negotiated Rates—Various Mar 1 2024 Releases to be effective 3/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5100.

*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–450–000.  
*Applicants:* Sabine Pipe Line LLC.  
*Description:* § 4(d) Rate Filing: Section 5 24.0.0 Transportation Rates 2024 Updated to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5104.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–451–000.  
*Applicants:* Eastern Gas Transmission and Storage, Inc.  
*Description:* § 4(d) Rate Filing: EGTS—February 29, 2024 Negotiated Rates and Nonconforming Service Agreements to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5115.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–452–000.  
*Applicants:* TransColorado Gas Transmission Company LLC.  
*Description:* § 4(d) Rate Filing: TC Quarterly FL&U Update Feb. 2024 to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5116.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–453–000.  
*Applicants:* Tennessee Gas Pipeline Company, L.L.C.  
*Description:* § 4(d) Rate Filing: 2024 Annual Fuel Adjustment Filing to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5117.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–454–000.  
*Applicants:* Kern River Gas Transmission Company.  
*Description:* § 4(d) Rate Filing: 2024 Daggett Surcharge Filing to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5123.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–455–000.  
*Applicants:* El Paso Natural Gas Company, L.L.C.  
*Description:* § 4(d) Rate Filing: Negotiated Rate Agreement Update (TMV Mar 2024) to be effective 3/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5128.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–456–000.  
*Applicants:* Rockies Express Pipeline LLC.  
*Description:* Compliance filing: REX 2024–02–29 Fuel and L&U Reimbursement Percentages and Power Cost Charges to be effective N/A.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5130.  
*Comment Date:* 5 p.m. ET 3/12/24.  
*Docket Numbers:* RP24–457–000.

*Applicants:* Tallgrass Interstate Gas Transmission, LLC.  
*Description:* § 4(d) Rate Filing: TIGT 2024–02–29 Fuel and L&U Reimbursement and Power Cost Tracker to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5133.  
*Comment Date:* 5 p.m. ET 3/12/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

#### Filings in Existing Proceedings

*Docket Numbers:* RP23–241–005.  
*Applicants:* Sea Robin Pipeline Company, LLC.  
*Description:* Compliance filing: Settlement Compliance Filing Docket Nos. RP23–241–000 and RP23–910–000 to be effective 4/1/2024.  
*Filed Date:* 2/29/24.  
*Accession Number:* 20240229–5058.  
*Comment Date:* 5 p.m. ET 3/12/24.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**  
*Acting Secretary.*

[FR Doc. 2024-04801 Filed 3-6-24; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2466-000]

#### Appalachian Power Company; Notice of Authorization for Continued Project Operation

The license for the Niagara Hydroelectric Project No. 2466 was issued for a period ending February 29, 2024.

Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee(s) under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2466 is issued to Appalachian Power Company for a period effective March 1, 2024, through February 28, 2025, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first.

If issuance of a new license (or other disposition) does not take place on or before February 28, 2025, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that Appalachian Power Company is authorized to continue operation of the Niagara Hydroelectric Project under the terms and conditions of the prior license until the issuance of a subsequent license for the project or other disposition under the FPA, whichever comes first.

Dated: March 1, 2024.

**Debbie-Anne A. Reese,**  
*Acting Secretary.*

[FR Doc. 2024-04907 Filed 3-6-24; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. AD10-12-015]

#### Increasing Market and Planning Efficiency Through Improved Software; Notice of Technical Conference: Increasing Real-Time and Day-Ahead Market and Planning Efficiency Through Improved Software

Take notice that Commission staff will convene a technical conference on July 9, 10, and 11, 2024 to discuss opportunities for increasing real-time and day-ahead market and planning efficiency through improved software. A detailed agenda with the list of presentation dates and times for the selected speakers will be published on the Commission's website<sup>1</sup> and in eLibrary after April 26, 2024.

This conference will bring together experts from diverse backgrounds including electric power system operators, software developers, government, research centers, and academia. The conference will bring these experts together for the purposes of stimulating discussion, sharing information, and identifying fruitful avenues for research on improving software for increased efficiency and reliability of the bulk power system.

This conference will build on discussions at prior conferences in this proceeding by focusing on topics identified as important to market efficiency in those conferences. Broadly, such topics fall into the following categories:

(1) Software for including climate change and extreme weather in short-term load forecasting and in long-term planning models, including novel methodologies for assessing capacity

<sup>1</sup> <https://www.ferc.gov/industries-data/electric/power-sales-and-markets/increasing-efficiency-through-improved-software>.

accreditation, energy adequacy, correlated outages, and weather-related derates and outages. Software advances to integrate probabilistic models into system planning models, whether scenario-based or stochastic, to better account for low-probability, high-impact events, such as extreme weather events.

(2) Software for improving the efficiency of the interconnection process, including improved interconnection studies, software for automating parts of the interconnection process, software for expediting power flow analyses related to interconnection, etc.

(3) Software for implementing advanced computing methods such as artificial intelligence (AI) or machine learning into existing or novel applications for improving real-time and day-ahead market and planning efficiency.

(4) Software related to grid-enhancing technologies, such as those described in Docket Nos. AD19-19<sup>2</sup> and AD19-15,<sup>3</sup> including optimal transmission switching, dynamic transmission line ratings, power flow controls, and any software related to implementing the Commission's recent rulemaking regarding line ratings in Order No. 881.<sup>4</sup>

(5) Software for improving the performance of generating resources' ability and incentives to follow dispatch instructions and for eliminating unnecessary make-whole payments, including software for ensuring that product awards reflect prevailing transmission constraints and capabilities of resources to deliver awarded products.

(6) Software for better modeling and computation of resources with distinct operating characteristics such as storage resources, multi-stage/multi-configuration resources, hybrid resources, aggregations of Distributed Energy Resources (DERs) (including DER Management Systems, or DERMS), and others. Presentations on this topic should focus on alternative formulations and solution methods for market models.

(7) Other improvements in algorithms, model formulations, or hardware advancements that may allow for improvements to the bulk power system in market efficiency and enhanced reliability.

The conference will take place in a hybrid format, with presenters and attendees allowed to participate either

<sup>2</sup> *Grid-Enhancing Technologies*, Docket No. AD19-19-000.

<sup>3</sup> *Managing Transmission Line Ratings*, Docket No. AD19-15-000.

<sup>4</sup> *Managing Transmission Line Ratings*, Order No. 881, 177 FERC ¶ 61,179 (2021).



in person or virtually. Further details on both in-person and virtual participation will be released prior to the conference.

Attendees must register through the Commission's website on or before June 3, 2024. Access to the conference (virtual or in-person) may not be available to those who do not register.

Speaker nominations must be submitted on or before April 19, 2024 through the Commission's website by providing the proposed speaker's contact information along with a title, abstract, and list of contributing authors for the proposed presentation.<sup>5</sup> Proposed presentations should be related to the topics discussed above. Speakers and presentations will be selected to ensure relevance to those topics and to accommodate time constraints.

Speakers are encouraged to submit new findings and novel work to ensure that the conference reflects the latest research. Presentations that only repeat similar content from previous years' conferences may be rejected. Presentation proposals that involve many of the same co-authors and have similar contents may be combined into a single proposal for one presentation.

All presentations materials (e.g., presentation slides) are due no later than 5:00 p.m. EDT on July 1, 2024. Before 1:00 p.m. EDT on July 8, 2024, Commission staff will work with presenters to provide quality assurance that their presentation materials are prepared, formatted correctly, and ready for delivery during the conference. All presentation materials submitted before 1:00 p.m. on July 8, 2024 will be posted to the Commission website before the conference. Any updated presentation materials submitted after 1:00 p.m. on July 8, 2024 will be posted to the Commission website after the conference; however, the live conference may use presentation material versions submitted prior to the deadline rather than late submissions.

The Commission will accept comments following the conference, with a deadline of August 12, 2024.

There is an "eSubscription" link on the Commission's website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility

accommodations please send an email to [accessibility@ferc.gov](mailto:accessibility@ferc.gov) or call toll free (866) 208-3372 (voice) or (202) 502-8659 (TTY), or send a fax to (202) 208-2106 with the required accommodations.

For further information about these conferences, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, (202) 502-8004, [Sarah.McKinley@ferc.gov](mailto:Sarah.McKinley@ferc.gov)  
Alexander Smith (Technical Information), Office of Energy Policy and Innovation, [Alexander.Smith@ferc.gov](mailto:Alexander.Smith@ferc.gov)  
Monica Ferrera, Office of Energy Policy and Innovation, [Monica.Ferrera@ferc.gov](mailto:Monica.Ferrera@ferc.gov)

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**  
*Acting Secretary.*

[FR Doc. 2024-04805 Filed 3-6-24; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC24-12-000]

#### Commission Information Collection Activities (FERC-582); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC-582 (Electric Fees, Annual Charges, Waivers, and Exemptions) (OMB Control Number 1902-0132).

**DATES:** Comments on the collection of information are due May 6, 2024.

**ADDRESSES:** You may submit your comments (identified by Docket No. IC24-12-000 and FERC-582) by one of the following methods:

Electronic filing through <http://www.ferc.gov>, is preferred.

- **Electronic Filing:** Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- **Mail via U.S. Postal Service Only:**  
Addressed to: Federal Energy

Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- **Hand (Including Courier) Delivery:**  
Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

**Instructions:** All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at (866) 208-3676 (toll-free).

**Docket:** Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jean Sonneman may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202) 502-6362.

#### SUPPLEMENTARY INFORMATION:

**Title:** FERC-582, Electric Fees, Annual Charges, Waivers, and Exemptions.

**OMB Control No.:** 1902-0132.

**Type of Request:** Three-year extension of the FERC-582 information collection requirements with no changes to the current reporting requirements.

**Abstract:** The information required by FERC-582 is contained in 18 CFR parts 381 and 382.

The Commission uses the FERC-582 information to implement the statutory provisions of the Independent Offices Appropriation Act of 1952<sup>1</sup> which authorizes the Commission to establish fees for its services. In addition, the Omnibus Budget Reconciliation Act of 1986<sup>2</sup> authorizes the Commission to assess and collect fees and annual charges in any fiscal year in amounts equal to all the costs incurred by the Commission in that fiscal year.

To comply with the FERC-582, respondents must submit to the Commission the sum of the megawatt-hours (MWh) of all unbundled transmission (including MWh delivered in wheeling transactions and MWh delivered in exchange transactions) and the megawatt-hours of all bundled wholesale power sales (to the extent the bundled wholesale power sales were not separately reported as unbundled transmission). The data collected in the FERC-582 information collection are drawn directly from the FERC Form 1 (Annual Report of Major Electric Utilities, Licensees and Others)<sup>3</sup> transmission data. The Commission

<sup>1</sup> 31 U.S.C. 9701.

<sup>2</sup> 42 U.S.C. 7178.

<sup>3</sup> OMB Control No. 1902-0021, described in 18 CFR 141.1.

<sup>5</sup> <https://www.ferc.gov/power-sales-and-markets/increasing-efficiency-through-improved-software>.



sums the costs of its electric regulatory program and subtracts all electric regulatory program filing fee collections to determine the total collectible electric regulatory program costs. Then, the Commission uses the data submitted under FERC-582 to determine the total megawatt-hours of transmission of electric energy in interstate commerce. Respondents (public utilities and power

marketers) subject to these annual charges must submit FERC-582 data to the Commission by April 30 of each year.<sup>4</sup> The Commission issues bills for annual charges to respondents. Then, respondents must pay the charges within 45 days of the Commission's issuance of the bill.

Respondents may file requests for waivers and exemptions of fees and

charges<sup>5</sup> based on need. The Commission's staff uses the filer's financial information to evaluate the request for a waiver or exemption of the obligation to pay a fee or an annual charge.

*Estimate of Annual Burden:* The Commission estimates the burden<sup>6</sup> and cost<sup>7</sup> for this information collection as follows.

#### FERC-582, ELECTRIC FEES, ANNUAL CHARGES, WAIVERS, AND EXEMPTIONS

| Number of respondents | Annual number of responses per respondent | Total number of responses | Average burden & cost per response | Total annual burden hours & cost | Cost per respondent |
|-----------------------|---|---------------------------|------------------------------------|----------------------------------|---------------------|
| (1)                   | (2)                                       | (1) × (2) = (3)           | (4)                                | (3) * (4) = (5)                  | (5)/(1) = (5)       |
| 51 .....              | 1   | 51                        | 2.39 hrs.; \$239.00 .....          | 121.89 hrs.; \$12,189.00 .....   | \$239.00            |

*Comments:* Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) 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.

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*

[FR Doc. 2024-04807 Filed 3-6-24; 8:45 am]

**BILLING CODE 6717-01-P**

#### DEPARTMENT OF ENERGY

#### Federal Energy Regulatory Commission

[Project No. 77-320]

#### Pacific Gas and Electric Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for Temporary Variance of Flow Requirements.

b. *Project No:* 77-320.

c. *Date Filed:* February 22, 2024.

d. *Applicant:* Pacific Gas and Electric Company (licensee).

e. *Name of Project:* Potter Valley Hydroelectric Project.

f. *Location:* The project is located on the Eel River and East Fork of the Russian River in Lake and Mendocino counties, California. The project occupies federal lands managed by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Jackie Pope, License Coordinator; Pacific Gas and Electric Company; 300 Lakeside Drive, Oakland, CA 94612; Phone: (530) 245-4007.

i. *FERC Contact:* John Aedo, (415) 369-3335, [john.aedo@ferc.gov](mailto:john.aedo@ferc.gov).

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* April 1, 2024.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P-77-320. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on

<sup>4</sup> 18 CFR 382.201.

<sup>5</sup> This includes requirements of 18 CFR 381.105 (methods of payment), 381.106 (waiver), 381.108 (exemption), 381.302 (declaratory order), 381.303 (review of DOE remedial order), 381.304 (DOE denial of adjustment), and 381.305 (OGC interpretation).

<sup>6</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR part 1320.

<sup>7</sup> The Commission staff estimates that the average respondent for FERC-582 is similarly situated to the Commission, in terms of salary plus benefits. Based on FERC's current annual average of \$207,786 (for salary plus benefits), the average hourly cost is \$100/hour.

each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The licensee requests a temporary variance of its minimum flow requirements at two project locations. Due to seismic risk at Scott Dam, the licensee has elected to leave the spillway gates at Scott Dam open indefinitely, thereby reducing the storage capacity in Lake Pillsbury by approximately 20,000 acre-feet. The licensee also states that there is a high potential for bank sloughing and ensuing dam safety and operational constraints should the reservoir recede to a pool level of between 5,000 and 12,000 acre-feet.

To preserve water storage in Lake Pillsbury and conserve cold water for downstream aquatic resources, the licensee proposes to release flows below Scott Dam (as measured at gage E-2) to be consistent with a critical water year type minimum flow of 20 cubic feet per second (cfs). However, actual releases would be closer to the minimum facility limitation of 35 cfs from the low-level outlet. In addition, the licensee would reduce minimum flows in the East Branch Russian River (as measured at gage E-16) to match the dry water year minimum flow requirement of 25 cfs with the flexibility to further reduce flows to the critical water year requirement of 5 cfs, depending on water availability, safety concerns, and water temperature conditions in the Eel River. After September 16, 2024, the licensee would resume the dry water year flow release of 25 cfs. In addition, the licensee requests that compliance with the minimum flow requirement in the Eel River below Cape Horn Dam (as measured at gage E-11) be modified to a 24-hour average instead of an instantaneous requirement to allow for a tighter compliance buffer.

The request licensee's request also includes provisions for water temperature and biological monitoring, environmental mitigation, and monthly consultation throughout implementation of the proposed variance. The licensee requests that the variance begin immediately upon Commission approval and conclude when Lake Pillsbury storage exceeds 36,000 acre-feet following October 1, 2024, or is superseded by another variance or license amendment.

m. *Locations of the Application:* This filing may be viewed on the

Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email [FEROnlineSupport@ferc.gov](mailto:FEROnlineSupport@ferc.gov), for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as

interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).

Dated: February 29, 2024.

**Debbie-Anne A. Reese,**  
*Acting Secretary.*

[FR Doc. 2024-04803 Filed 3-6-24; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OCFO-2024-0107; FRL-11791-01-OCFO]

### Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; General Performance Reporting for Assistance Programs

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), General Performance Reporting for Assistance Programs (EPA ICR Number 2802.01, OMB Control Number 2090-NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. This document allows 60 days for public comments.

**DATES:** Comments must be submitted on or before May 6, 2024.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA-HQ-OCFO-2024-0107, to EPA online using <https://www.regulations.gov> (our preferred method), by email to [Docket\\_OCFO@epa.gov](mailto:Docket_OCFO@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Aarti Iyer, Office of the Chief Financial Officer, Environmental Protection Agency, 1200 Pennsylvania Ave. NW,

Washington, DC 20460; email address: [iyer.aarti@epa.gov](mailto:iyer.aarti@epa.gov); telephone number: 202-564-0214.

**SUPPLEMENTARY INFORMATION:** This is a request for approval of a new collection. 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.

This document allows 60 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov> or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <https://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** document to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

**Abstract:** The U.S. Environmental Protection Agency (EPA) awards billions in funding for grants and other financial assistance agreements, with recipients ranging from small non-profit organizations to large state governments. With this Information Collection Request (ICR), EPA seeks authorization to collect information to track progress made by the Agency's financial assistance programs. Collection of this information enables EPA to assess and manage its financial assistance programs, which in turn ensures

responsible stewardship of public funds; rigorous evidence-based learning and improvement; and transparent accountability to the American public. The information requested under this ICR will be collected via performance report forms submitted by recipients of financial assistance awards, which document their planned and actual milestones, resources, activities, partners, timelines, locations, audiences, outputs, and outcomes. These forms include work plans, quality assurance documents, interim progress reports, and final progress reports.

**Form numbers:** None.

**Respondents/affected entities:** Recipients of financial assistance awards from EPA.

**Respondent's obligation to respond:** Mandatory for grant recipients as per reporting requirements included in EPA regulations 2 CFR parts 200 and 1500.

**Estimated number of respondents:** Approximately 5,000.

**Frequency of response:** One work plan, one set of quality assurance documents, variable numbers of interim progress reports, one final progress report.

**Total estimated burden:** 74,500 hours per year.

**Total estimated cost:** \$4,864,105 per year.

**Katherine Dawes,**

*EPA Evaluation Officer, Office of the Chief Financial Officer.*

[FR Doc. 2024-04875 Filed 3-6-24; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0750; FRL-11658-01-OCSPP]

### Pesticide Registration Review; Proposed Decisions for Several Pesticides; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's proposed interim decisions for the following pesticides: acrolein and oxyfluorfen. The notice also announces the availability of EPA's proposed registration review decision for demiditraz. EPA is opening a 60-day public comment period for these proposed interim and proposed registration review decisions.

**DATES:** Comments must be received on or before May 6, 2024.

**ADDRESSES:** Submit your comments, identified by docket identification (ID)

number EPA-HQ-OPP-2017-0750, 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:** For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in table 1 of unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0701; email address: [biscoe.melanie@epa.gov](mailto:biscoe.melanie@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in table 1 in unit IV.

#### 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](https://www.regulations.gov) or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information on 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/commenting-epa-dockets>.

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. Background**

Registration review is EPA’s periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim or proposed final decisions for all pesticides listed in table 1 in unit IV. Through this program, EPA is ensuring that each pesticide’s registration is based on current scientific and other knowledge, including its effects on human health and the environment.

**III. Authority**

EPA is conducting its registration review of the chemicals listed in the table 1 of unit IV pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(g) (7 U.S.C. 136a(g)) and the Procedural

Regulations for Registration Review at 40 CFR part 155, subpart C. FIFRA Section 3(g) provides, among other things, that pesticide registrations are to be reviewed every 15 years. Consistent with 40 CFR 155.57, in its final registration review decision, EPA will ultimately determine whether a pesticide continues to meet the registration standard in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). As part of the registration review process, the Agency has completed a proposed interim or proposed decision for each of the pesticides listed in table 1 of unit IV.

**IV. What action is the Agency taking?**

Pursuant to 40 CFR 155.58(a), this notice announces the availability of EPA’s proposed interim and proposed registration review decisions for the pesticides shown in table 1 and opens a 60-day public comment period on the proposed interim and proposed registration review decisions.

TABLE 1—PROPOSED INTERIM AND PROPOSED REGISTRATION REVIEW DECISIONS

| Registration review case name and No. | Docket ID No.         | Chemical review manager and contact information   |
|---------------------------------------|-----------------------|---|
| Acrolein Case Number 2005 .....       | EPA–HQ–OPP–2015–0571. | Katherine Atha, <a href="mailto:atha.katherine@epa.gov">atha.katherine@epa.gov</a> , (202) 566–1933.<br>Peter Bergquist, <a href="mailto:bergquist.peter@epa.gov">bergquist.peter@epa.gov</a> , (202) 566–0648. |
| Demiditraz Case Number 7482 .....     | EPA–HQ–OPP–2021–0407. | Anitha Koyra, <a href="mailto:koyra.anitha@epa.gov">koyra.anitha@epa.gov</a> , (202) 566–2214.  |
| Oxyfluorfen Case Number 2490 .....    | EPA–HQ–OPP–2014–0778. | R. David Jones, <a href="mailto:jones.rdavid@epa.gov">jones.rdavid@epa.gov</a> , (202) 566–1945.  |

The registration review docket for a pesticide includes documents related to the registration review case. Among other things, these documents describe EPA’s rationales for conducting additional risk assessments for the registration review of the pesticides included in table 1 of unit IV, as well as the Agency’s subsequent risk findings and consideration of possible risk mitigation measures. The proposed interim and proposed registration review decisions are supported by the rationales included in those documents.

Consistent with 40 CFR 155.58(a), EPA provides for at least a 60-day public comment period on proposed interim and proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the

docket for the pesticides included in table 1 in unit IV. The Agency will consider all comments received by the closing date and may respond to comments in a “Response to Comments Memorandum” in the docket and/or in any subsequent interim or final registration review decision, as appropriate.

For additional background on the registration review program, see: <https://www.epa.gov/pesticide-reevaluation>.

*Authority:* 7 U.S.C. 136 *et seq.*

Dated: February 29, 2024.

**Timothy Kiely,**  
*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*  
[FR Doc. 2024–04873 Filed 3–6–24; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

[EPA–HQ–ORD–2021–0560; FRL–11796–01–ORD]

**Availability of the Draft IRIS Toxicological Review of Perfluorononanoic Acid [PFNA, CASRN 375–95–1] and Related Salts**

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

**ACTION:** Notice of public comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing a 60-day public comment period associated with release of the draft IRIS Toxicological Review of Perfluorononanoic Acid [PFNA, CASRN 375–95–1] and Related Salts. The draft document was prepared by the Center for Public Health and Environmental Assessment (CPHEA) within EPA’s Office of Research and Development (ORD). EPA is releasing this draft IRIS assessment for public comment in advance of a contract-led

peer review. Public comments received will be provided to the external peer reviewers. ERG, a contractor to EPA, will convene a public meeting to discuss the draft report with the public during Step 4 of the IRIS Process. The external peer reviewers will consider public comments submitted in response to this notice and comments provided at a future public peer review meeting. EPA will consider all comments received when revising the document post-peer review. This draft assessment is not final as described in EPA's information quality guidelines, and it does not represent, and should not be construed to represent Agency policy or views.

**DATES:** The 60-day public comment period begins March 7, 2024 and ends May 6, 2024. Comments must be received on or before May 6, 2024.

**ADDRESSES:** The IRIS Toxicological Review of Perfluorononanoic Acid [PFNA, CASRN 375-95-1] and Related Salts will be available via the internet on the IRIS website at <https://www.epa.gov/iris/iris-recent-additions> and in the public docket at <http://www.regulations.gov>, Docket ID No. EPA-HQ-ORD-2021-0560.

**FOR FURTHER INFORMATION CONTACT:** For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202-566-1752; facsimile: 202-566-9744; or email: [Docket\\_ORD@epa.gov](mailto:Docket_ORD@epa.gov).

For technical information on the IRIS Toxicological Review of Perfluorononanoic Acid PFNA, CASRN 375-95-1], contact Mr. Dahnish Shams, CPHEA; email: [shams.dahnish@epa.gov](mailto:shams.dahnish@epa.gov). The IRIS Program will provide updates through the IRIS website (<https://www.epa.gov/iris>) and via EPA's IRIS listserv. To register for the IRIS listserv, visit the IRIS website (<https://www.epa.gov/iris>) or visit <https://www.epa.gov/iris/forms/staying-connected-integrated-risk-information-system#connect>.

For questions about the peer review, please contact: Laurie Waite, ERG, by email at [peerreview@erg.com](mailto:peerreview@erg.com) (subject line: EPA PFAS assessments peer review); or by phone: (781) 674-7362.

**SUPPLEMENTARY INFORMATION:** How to Submit Technical Comments to the Docket at <https://www.regulations.gov>.

Submit your comments, identified by Docket ID No. EPA-HQ-ORD-2021-0560 for the Perfluorononanoic Acid IRIS Assessment, by one of the following methods:

- [www.regulations.gov](https://www.regulations.gov): Follow the on-line instructions for submitting comments.

- Email: [Docket\\_ORD@epa.gov](mailto:Docket_ORD@epa.gov).

- Fax: 202-566-9744.

- Mail: U.S. Environmental

Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202-566-1752.

For information on visiting the EPA Docket Center Public Reading Room, visit <https://www.epa.gov/dockets>. Due to public health concerns related to COVID-19, the EPA Docket Center and Reading Room may be closed to the public with limited exceptions. The telephone number for the Public Reading Room is 202-566-1744. The public can submit comments via [www.regulations.gov](https://www.regulations.gov) or email.

**Instructions:** Direct your comments to docket number EPA-HQ-ORD-2021-0560 for Perfluorononanoic Acid IRIS Assessment. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at [www.regulations.gov](https://www.regulations.gov), including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through

[www.regulations.gov](https://www.regulations.gov) or email that you consider to be CBI or otherwise protected. The [www.regulations.gov](https://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](https://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at [www.epa.gov/epahome/dockets.htm](https://www.epa.gov/epahome/dockets.htm).

**Docket:** Documents in the docket are listed in the [www.regulations.gov](https://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](https://www.regulations.gov) or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

**Vanessa Holt,**

Acting Director, Center for Public Health & Environmental Assessment.

[FR Doc. 2024-04789 Filed 3-6-24; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-11774-01-R6]

### Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Intercontinental Terminals Company LLC, Harris County, Texas

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

**ACTION:** Notice of final order on petition.

**SUMMARY:** The Environmental Protection Agency (EPA) Administrator signed an Order dated February 07, 2024, granting in part and denying in part a petition dated September 6, 2023, from Air Alliance Houston, Sierra Club, Environment Texas, and Environmental Integrity Project (the Petitioners). The petition requested that the EPA object to a Clean Air Act (CAA) title V operating permit issued by the Texas Commission on Environmental Quality (TCEQ) to Intercontinental Terminals Company LLC, for its Pasadena Terminal located in Harris County, Texas.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Ehrhart, EPA Region 6 Office, Air Permits Section, (214) 665-2295, [ehrhart.jonathan@epa.gov](mailto:ehrhart.jonathan@epa.gov). The final order and petition are available electronically at: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

**SUPPLEMENTARY INFORMATION:** The EPA received a petition from Air Alliance Houston, Sierra Club, Environment Texas, and Environmental Integrity Project dated September 6, 2023, requesting that the EPA object to the issuance of operating permit No. O3785, issued by TCEQ to Intercontinental Terminals Company, LLC for its Pasadena Terminal located in Harris

County, Texas. On February 07, 2024, the EPA Administrator issued an order granting in part and denying in part the petition. The order itself explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than May 6, 2024.

Dated: February 26, 2024.

**David Garcia,**

*Director, Air and Radiation Division, Region 6.*

[FR Doc. 2024-04409 Filed 3-6-24; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA-HQ-OPP-2017-0720; FRL-11657-01-OCSPP]**

### **Pesticide Registration Review; Pesticide Dockets Opened for Review and Comment; Notice of Availability**

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of the EPA's work plans and registration review case dockets for the following chemicals: Nucleopolyhedroviruses and Granuloviruses (Insect Viruses). EPA is opening a 60-day public comment period for these work plans and case dockets.

**DATES:** Comments must be received on or before May 6, 2024.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2017-0720, 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:**

*For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in Table 1 of Unit IV.

*For general questions on the registration review program, contact:* Melanie Biscoe, Pesticide Re-Evaluation

Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0701; email address: [biscoe.melanie@epa.gov](mailto:biscoe.melanie@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this action apply to me?*

This notice is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in Table 1 of Unit IV.

###### *B. What should I consider as I prepare my comments for the EPA?*

1. *Submitting CBI.* Do not submit this information to the EPA through [regulations.gov](https://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, 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/commenting-epa-dockets>.

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. Background**

Registration review is the EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the agency may consider during registration reviews. As part of the registration review process, the Agency has completed preliminary workplans for all pesticides listed in Table 1 in Unit IV. EPA initiates a registration review by establishing a public docket for a pesticide registration review case. The docket contains a Preliminary Work Plan (PWP) summarizing information EPA has on the pesticide and the anticipated path forward. Through this program, the EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

##### **III. Authority**

EPA is conducting its registration review of the chemicals listed in Table 1 of Unit I pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(g) (7 U.S.C. 136a(g)) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. FIFRA section 3(g) provides, among other things, that pesticide registrations are to be reviewed every 15 years. Consistent with 40 CFR 155.57, in its final registration review decision, EPA will ultimately determine whether a pesticide continues to meet the registration standard in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)).

##### **IV. Registration Review**

###### *A. What action is the Agency taking?*

Pursuant to 40 CFR 155.50(b), this notice announces the availability of the EPA's work plans and registration review case dockets for the pesticides shown in Table 1 and opens a 60-day public comment period on the work plans and case dockets.

TABLE 1—WORK PLANS BEING MADE AVAILABLE FOR PUBLIC COMMENT

| Registration review case name and No.   | Docket ID No.         | Chemical review manager and contact information   |
|---|-----------------------|---|
| Nucleopolyhedroviruses and Granuloviruses (Insect Viruses), Case Number 4106. | EPA-HQ-OPP-2023-0436. | Jennifer Odom-Douglas, <a href="mailto:odomdouglas.jennifer@epa.gov">odomdouglas.jennifer@epa.gov</a> , (202) 566-1536. |

### B. Docket Content

Pursuant to 40 CFR 155.50, EPA initiates a registration review by establishing a public docket for a pesticide registration review case. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency has considered during registration review. Consistent with 40 CFR 155.50(a), these dockets may include information from the Agency's files including, but not limited to, an overview of the registration review case status, a list of current product registrations and registrants, any **Federal Register** notices regarding any pending registration actions, any **Federal Register** notices regarding current or pending tolerances, risk assessments, bibliographies concerning current registrations, summaries of incident data, and any other pertinent data or information. EPA includes in these dockets a Preliminary Work Plan (PWP), and in some cases a continuing work plan (CWP), summarizing information EPA has on the pesticide and the anticipated path forward.

Consistent with 40 CFR 155.50(b), EPA provides for at least a 60-day public comment period on work plans and registration review dockets. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary changes to a pesticide's workplan. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

All comments should be submitted using the methods in **ADDRESSES** and must be received by the EPA on or before the closing date. These comments will become part of the docket for the pesticides included in Table 1 of Unit I. The Agency will consider all comments received by the closing date and may respond to comments in a "Response to Comments Memorandum" in the docket or the Final Work Plan (FWP), as appropriate.

For additional background on the registration review program, see: <https://www.epa.gov/pesticide-reevaluation>.

*Authority:* 7 U.S.C. 136 *et seq.*

Dated: February 29, 2024.

**Timothy Kiely,**

*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2024-04827 Filed 3-6-24; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0751; FRL-11659-01-OCSPJ]

### Pesticide Registration Review; Decisions for Several Pesticides; Notice of Availability

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the availability of EPA's interim registration review decision for etofenprox. The notice also announces the availability of EPA's final registration review decision for acetaminophen.

**DATES:** Comments must be received on or before May 6, 2024.

#### FOR FURTHER INFORMATION CONTACT:

*For pesticide specific information, contact:* The Chemical Review Manager for the pesticide of interest identified in Table 1 of Unit I.

*For general information on the registration review program, contact:* Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0701; email address: [biscoe.melanie@epa.gov](mailto:biscoe.melanie@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the

Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in Table 1 in Unit IV.

#### 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](https://www.regulations.gov) or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information on 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/commenting-epa-dockets>.

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. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can



perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim or proposed final decisions for all pesticides listed in Table 1 in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

### III. Authority

EPA is conducting its registration review of the chemicals listed in Table 1 of Unit I pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(g) (7 U.S.C. 136a(g)) and the Procedural Regulations

for Registration Review at 40 CFR part 155, subpart C. FIFRA section 3(g) provides, among other things, that pesticide registrations are to be reviewed every 15 years. Consistent with 40 CFR 155.57, in its final registration review decision, EPA will ultimately determine whether a pesticide continues to meet the registration standard in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). As part of the registration review process, the Agency has completed interim or final registration review decisions for the pesticides in Table 1 of Unit IV.

### IV. What action is this Agency taking?

Prior to completing the interim or final registration review decisions in Table 1 of Unit IV, EPA posted proposed

interim decisions or proposed registration review decisions for these chemicals and invited the public to submit any comments or new information, consistent with 40 CFR 155.58(a). EPA considered and responded to any comments or information received during these public comment periods in the respective interim decision or final registration review decisions.

Pursuant to 40 CFR 155.58(c), this notice announces the availability of EPA's interim or final registration review decisions for the pesticides shown in Table 1. The interim and final registration review decisions are supported by rationales included in the docket established for each chemical.

TABLE 1—INTERIM AND FINAL REGISTRATION REVIEW DECISIONS BEING ISSUED

| Registration review case name and No. | Docket ID No.         | Chemical review manager and contact information  |
|---------------------------------------|-----------------------|--|
| Acetaminophen, Case Number 7610 ..... | EPA-HQ-OPP-2022-0816. | Lauren Weissenborn, <a href="mailto:weissenborn.lauren@epa.gov">weissenborn.lauren@epa.gov</a> , (202) 566-2374. |
| Etofenprox, Case Number 7407 .....    | EPA-HQ-OPP-2007-0804. | DeMariah Koger, <a href="mailto:koger.demariah@epa.gov">koger.demariah@epa.gov</a> , (202) 566-2288.             |

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA's rationales for conducting additional risk assessments for the registration review of the pesticides included in Table 1 in Unit IV, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. These proposed interim and proposed final registration review decisions are supported by the rationales included in those documents. Following public comment, the Agency will issue interim or final registration review decisions for the pesticides listed in Table 1 in Unit IV.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in Table 1 in Unit IV. Comments received

after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a "Response to Comments Memorandum" in the docket. The interim or final registration review decision will explain the effect that any comments had on the interim or final decision and provide the Agency's response to significant comments.

For additional background on the registration review program, see: <https://www.epa.gov/pesticide-reevaluation>.

*Authority:* 7 U.S.C. 136 *et seq.*

Dated: February 29, 2024.

**Timothy Kiely,**

*Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2024-04828 Filed 3-6-24; 8:45 am]

**BILLING CODE 6560-50-P**

### EXPORT-IMPORT BANK

#### Information Request on Financing Support for Critical Minerals Projects

**AGENCY:** Export-Import Bank of the United States.

**ACTION:** Notice.

**SUMMARY:** To assist the Export-Import Bank of the United States (EXIM) in supporting critical minerals

transactions, which are crucial to the supply chains of several of the Congressionally mandated Transformational Export Areas in EXIM's Charter, EXIM seeks information on the financing gaps faced by project sponsors, users of critical minerals, and suppliers to critical minerals projects.

**DATES:** Comments are due on May 6, 2024.

**ADDRESSES:** Interested parties may submit comments on this transaction electronically on [www.regulations.gov](http://www.regulations.gov). To submit a comment, enter "Information Request on Financing Support for Critical Minerals" under the heading "Enter Keyword or ID" and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and "Information Request on Financing Support for Critical Minerals Projects" on any attached document. Comments can also be sent by email or mail to Scott Condren, [Scott.Condren@exim.gov](mailto:Scott.Condren@exim.gov), Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC 20571.

**FOR FURTHER INFORMATION CONTACT:** To request additional information, please contact Scott Condren, [Scott.Condren@exim.gov](mailto:Scott.Condren@exim.gov), 202-509-4227.

**SUPPLEMENTARY INFORMATION:** In EXIM's 2019 reauthorization, Congress directed the agency to create the China and Transformational Exports Program

(CTEP) and use its tools and authorities to advance the comparative leadership of the United States with respect to the People's Republic of China (PRC), or support United States innovation, employment, and technological standards through direct exports in 10 transformational export areas. These export areas include:

- Artificial intelligence.
- Biotechnology.
- Biomedical sciences.
- Wireless communications

equipment (including 5G or subsequent wireless technologies).

- Quantum computing.
- Renewable energy, energy efficiency, and energy storage.
- Semiconductor and semiconductor machinery manufacturing.
- Emerging financial technologies (including technologies that facilitate financial inclusion through increased access to capital and financial services; data security and privacy; payments, the transfer of funds, and associated messaging services; and efforts to combat money laundering and the financing of terrorism).

• Water treatment and sanitation (including technologies and infrastructure to reduce contaminants and improve water quality).

- High-performance computing;
- Associated services necessary for use of any of the foregoing exports.

Additionally, EXIM reviews over the last few years indicate that critical minerals are a crucial component of multiple transformational export areas—and the U.S. lags the PRC in the proven reserves, mining, and processing of almost all critical minerals. Thus, EXIM has prioritized critical minerals that are part of the supply chain for transformational export areas and clearly align to the capacity to produce and foreign demand for U.S. goods and services in transformational export area industries.

Therefore, to understand how EXIM financing can better support U.S. exporters in this sector, diversify supply chains, and ensure access to critical minerals by U.S. users, EXIM is seeking public comment on the financing gaps stakeholders face. EXIM has identified specific questions for specific stakeholders but welcomes feedback from all relevant stakeholders not specifically identified here.

(A) For U.S. exporters to critical minerals projects:

(1) What part of the supply chain do you supply (e.g., mining, refining, or processing)?

(2) What goods and services do you provide to such projects (e.g., services, capital equipment, intermediate components, consumables)?

(3) What are the financing challenges, if any, that prevent securing sales with foreign buyers?

(4) Are you aware of or facing competition backed by foreign government financing?

(5) If so, please identify the competition and the type of foreign government financing provided.

(6) Have you previously used financing tools from the Export-Import Bank of the United States?

(7) If you have not utilized EXIM financing, please explain why not (e.g., no need, fees too high, could not meet policy criteria such as content).

(B) For U.S.-based users of critical minerals:

(1) Which critical minerals are most important to your operations?

(2) In what geographies are you most likely to seek access to those minerals?

(3) Is there now or expected to be in the future competitive U.S.-based sources of those minerals?

(4) What financial hurdles are there to obtaining critical minerals? Please distinguish between short-term hurdles (such as insufficient access to working capital to import specific cargos) and longer-term (such as requirements of foreign projects for large down payments in exchange for long-term supply contracts).

(5) What impact does lack of access to critical minerals have on your operations, particularly regarding employment and exports?

(6) To what extent are you aware of foreign competitors gaining access to critical minerals resources via foreign government support (such as lending to a foreign mine conditional on selling output to a particular company)?

(7) What form does such support take?

EXIM encourages respondents, when addressing the points above, unless raising other challenges to financing critical minerals transactions, to identify which point they are responding to by using the same numbers and heading as set forth above. For example, a user of critical minerals submitting comments responsive to (4), "What financial hurdles are there to obtaining critical minerals", would use that same text as a heading followed by the respondent's specific comments responding to it. This formatting will assist EXIM in more easily reviewing and summarizing the comments received in response to these specific points of inquiry.

**Scott Condren,**

*Vice President, Policy Analysis Division,  
Office of Policy Analysis and International  
Relations.*

[FR Doc. 2024-04883 Filed 3-6-24; 8:45 am]

**BILLING CODE 6690-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1214; FR ID 205909]

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees." The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before April 8, 2024.

**ADDRESSES:** Comments should be sent to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Your comment must be submitted into [www.reginfo.gov](http://www.reginfo.gov) per the above instructions for it to be considered. In addition to submitting in [www.reginfo.gov](http://www.reginfo.gov) also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov). Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the

section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

*OMB Control Number:* 3060–1214.

*Title:* Direct Access to Numbers Order, FCC 15–70, Conditions.

*Form Number:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 20 respondents; 20 responses.

*Estimated Time per Response:* 10–35 hours.

*Frequency of Response:* One-time; ongoing and bi-annual reporting requirements.

*Obligation to Respond:* Voluntary. Statutory authority for these collections are contained in 47 U.S.C. 251(e)(1) and section 6(a) of the TRACED Act.

*Total Annual Burden:* 1,100 hours.

*Total Annual Cost:* No Cost.

*Needs and Uses:* On June 18, 2015, the Commission adopted a Report and Order establishing the Numbering Authorization Application, which allows interconnected VoIP providers to apply for a blanket authorization from the FCC that, once granted, will allow them to demonstrate that they have the authority to provide service in specific areas, thus enabling them to request numbers directly from the Numbering Administrators. The collection covers the information and certifications that applicants must submit in order to comply with the Numbering Authorization Application process. On September 21, 2023, the Commission adopted a Second Report and Order that strengthens this application process by revising this information collection to ensure the Commission receives sufficient detail from interconnected VoIP applicants to make informed, public-interest-driven decisions about their direct access applications and thereby protect the public from bad actors. This information will continue help the Commission stem the tide of illegal robocalls, protect national security and law enforcement, safeguard the nation’s finite numbering resources, reduce the opportunity for regulatory arbitrage, and further promote public safety.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2024–04806 Filed 3–6–24; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0922; FR ID 206806]

### Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information shall have practical utility; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

**DATES:** Written PRA comments should be submitted on or before May 6, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicole Ongele, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [nicole.ongele@fcc.gov](mailto:nicole.ongele@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

#### SUPPLEMENTARY INFORMATION:

*OMB Control Number:* 3060–0922.

*Title:* Mid-Term Self-Identification.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities, Not-for-profit institutions.

*Number of Respondents and Responses:* 1,168 respondents; 1,168 responses.

*Estimated Time per Response:* 1.2 minutes (0.02 hours).

*Frequency of Response:* Mid-term reporting requirement, generally once every eight years.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended.

*Total Annual Burden:* 23 hours.

*Total Annual Cost:* No Cost.

*Needs and Uses:* On February 15, 2019, the Commission released a Report and Order (Order), MB Docket No. 18–23, FCC 19–10; *In the Matter of Elimination of Obligation to File*

*Broadcast Mid-Term Report (Form 397) Under Section 73.2080(f)(2).* The Order eliminated the provision of Section 73.2080(f)(2) which required stations to file Form 397 and, as announced via Public Notice on May 11, 2023,<sup>1</sup> replaced it with a technological approach designed to be more efficient and less burdensome to licensees. Now, when uploading their annual EEO public file report to the Commission's Online Public Inspection File (OPIF), broadcast radio and Satellite Digital Audio Radio Services (SDARS)<sup>2</sup> licensees are required at the mid-point of their license term once every eight years<sup>3</sup> to answer "Yes" or "No" to indicate whether they have eleven or more full-time employees, which is the threshold number of employees triggering a mid-term review for radio and SDARS employment units. All television stations uploading an EEO public file report to the OPIF are necessarily subject to a mid-term review because the requisite staff size for both obligations is five full-time employees for television employment units. Thus, the very act of posting the report to the OPIF is sufficient to identify television stations subject to a mid-term review.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2024-04808 Filed 3-6-24; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Tuesday, March 12, 2024 at 10 a.m. and its continuation at the conclusion of the open meeting on March 14, 2024.

<sup>1</sup> See *Broadcast Equal Employment Opportunity Mid-Term Review Cycle Commences June 1, 2023*, Public Notice, DA 23-381, 2023 WL 3476411 (EB May 11, 2023).

<sup>2</sup> Satellite radio (also referred to as "Satellite Digital Audio Radio Services" or "SDARS") licensees are required to comply with the Commission's EEO broadcast rules and policies. They must engage in the same recruitment, outreach, public file, website posting, record-keeping, reporting, and self-assessment obligations required of broadcast licensees, and are subject to the same EEO policies. See *Applications for Consent to the Transfer of Control of Licenses, XM Satellite Radio Holdings Inc., Transferor, to Sirius Satellite Radio Inc., Transferee*, 23 FCC Rcd 12348, 12426, ¶ 174, and note 551 (2008). See also *Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band*, 12 FCC Rcd 5754, 5791-92, ¶¶ 91-92 (1997), FCC 97-70.

<sup>3</sup> In order to meet OMB's requirements, the Commission annualized its burden because the information is collected every eight years.

**PLACE:** 1050 First Street NE, Washington, DC, and virtual (this meeting will be a hybrid meeting).  
**STATUS:** This meeting will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Compliance matters pursuant to 52 U.S.C. 30109.

Financial or commercial information obtained from any person which is privileged or confidential.

Matters concerning participation in civil actions or proceedings or arbitration.

\* \* \* \* \*

**CONTACT PERSON 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,**

*Deputy Secretary of the Commission.*

[FR Doc. 2024-04968 Filed 3-5-24; 4:15 pm]

**BILLING CODE 6715-01-P**

## FEDERAL MARITIME COMMISSION

[Docket No. 24-13]

**Access One Transport, Inc.,  
Complainant v. COSCO Shipping Lines  
Co. Ltd., Respondent; Notice of Filing  
of Complaint and Assignment**

Served: March 1, 2024.

Notice is given that a complaint has been filed with the Federal Maritime Commission (the "Commission") by Access One Transport, Inc. (the "Complainant") against COSCO Shipping Lines Co. Ltd. (the "Respondent"). Complainant states that the Commission has subject matter jurisdiction over the complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.* and personal jurisdiction over the Respondent as an ocean common carrier, as defined in 46 U.S.C. 40102(7) and (18).

Complainant is a California corporation with a principal place of business in Gardena, California that operates as a licensed motor carrier.

Complainant identifies Respondent as a corporation organized under the laws of China with its corporate headquarters in Shanghai, China, that has a U.S. agent, COSCO Shipping (North America), Inc., with a principal place of business in Secaucus, New Jersey, and as an ocean common carrier at all times pertinent to the complaint.

Complainant alleges that Respondent violated 46 U.S.C. 41102(c), 41104(a)(3), and 41104(a)(8). Complainant alleges these violations arose from acts or

omissions of the Respondent that rendered Complainant unable to return empty containers within the allowable free time, including the imposition of dual transaction restrictions and return limits, and the unavailability of appointments. Complainant also alleges these violations caused various damages to the Complainant, including detention charges, chassis charges, storage costs, stop off charges, and re-delivery charges.

An answer to the complaint must be filed with the Commission within 25 days after the date of service.

The full text of the complaint can be found in the Commission's electronic Reading Room at <https://www2.fmc.gov/readingroom/proceeding/24-13/>. This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by March 3, 2025, and the final decision of the Commission shall be issued by September 18, 2025.

**David Eng,**

*Secretary.*

[FR Doc. 2024-04861 Filed 3-6-24; 8:45 am]

**BILLING CODE 6730-02-P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation M (FR M; OMB No. 7100-0202).

**DATES:** Comments must be submitted on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by FR M, by any of the following methods:

- **Agency Website:** <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- **Email:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the OMB number or FR number in the subject line of the message.
- **Fax:** (202) 452-3819 or (202) 452-3102.
- **Mail:** Federal Reserve Board of Governors, Attn: Ann E. Misback,

Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. 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.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:**

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, [nuha.elmaghrabi@frb.gov](mailto:nuha.elmaghrabi@frb.gov), (202) 452-3884.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's

public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

**Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

**Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection**

*Collection title:* Recordkeeping and Disclosure Requirements Associated with the CFPB's Regulation M.

*Collection identifier:* FR M.

*OMB control number:* 7100-0202.

*General description of collection:* The Consumer Leasing Act (CLA) and Regulation M require lessors uniformly to disclose to consumers the costs, liabilities, and terms of consumer lease transactions. The Dodd-Frank Wall Street Reform and Consumer Protection Act transferred rulemaking authority for the CLA to the CFPB except for certain motor vehicle dealers that are excluded from the CFPB's authority, which remain subject to the Board's Regulation M. The FR M is the Board's information collection associated with Regulation M. These disclosures are provided to

consumers before they enter lease transactions and in advertisements that state the availability of consumer leases on particular terms. The disclosures are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property and enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions.

*Frequency:* Event generated.

*Respondents:* The FR M panel comprises state member banks with assets of \$10 billion or less that are not affiliated with an insured depository institution with assets over \$10 billion (irrespective of the consolidated assets of any holding company); non-depository affiliates of such state member banks; and non-depository affiliates of bank holding companies that are not affiliated with an insured depository institution with assets over \$10 billion. Notwithstanding the foregoing, the Consumer Financial Protection Bureau, and not the Board, has supervisory authority for Regulation M with respect to automobile leasing over non-banks defined as "larger participants" in the automobile finance market pursuant to 12 U.S.C. 5514 (implemented by 12 CFR 1090.108).

*Total estimated number of respondents:* 3.

*Total estimated annual burden hours:* 17.<sup>1</sup>

Board of Governors of the Federal Reserve System, March 4, 2024.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2024-04892 Filed 3-6-24; 8:45 am]

**BILLING CODE 6210-01-P**

**FEDERAL RESERVE SYSTEM**

**Proposed Agency Information Collection Activities; Comment Request**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Senior Financial Officer Surveys (FR 2023; OMB No. 7100-0223).

<sup>1</sup> More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR M.

**DATES:** Comments must be submitted on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by FR 2023, by any of the following methods:

- **Agency Website:** <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- **Email:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the OMB number or FR number in the subject line of the message.

- **Fax:** (202) 452–3819 or (202) 452–3102.

- **Mail:** Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. on weekdays, except for Federal holidays. 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.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, [nuha.elmaghrabi@frb.gov](mailto:nuha.elmaghrabi@frb.gov), (202) 452–3884.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to

collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

#### **Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

- c. Ways to enhance the quality, utility, and clarity of the information to be collected;

- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

#### **Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection**

**Collection title:** Senior Financial Officer Surveys.

**Collection identifier:** FR 2023.

**OMB control number:** 7100–0223.

**General description of collection:** The Board uses the surveys in this collection to gather qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets from a selection of up to 80 large commercial banks and other depository institutions (or, if appropriate, from other major financial market participants). This voluntary survey is completed by a senior officer at each respondent institution. In recent years, the Board has conducted two surveys per year, but it may conduct up to four surveys per year when significant informational needs arise that cannot be met from existing data sources.

**Proposed revisions:** The Board proposes to revise the FR 2023 by increasing the panel size from 80 to 100 and changing the method of collection from email to an online survey tool. An example of an online survey tool is a software platform by Qualtrics, a commercial experience management company that is a Federal Reserve vendor. The larger panel size is intended to obtain more data from relatively smaller depository institutions (those with between \$1 billion and \$50 billion in total assets). Compared to the current data collection method (an emailed Excel spreadsheet), use of an online tool would enhance the survey with interactive features (such as posing follow-up questions based on respondent inputs), improved automated safeguards against data quality risks, workflow efficiency features such as response tracking and version control, and usability on mobile devices. These revisions would be effective on September 1, 2024.

**Frequency:** Up to four times a year.

**Respondents:** Domestic depository institutions and foreign banking organizations.

**Total estimated number of respondents:** 100.

**Total estimated change in burden:** 240.

**Total estimated annual burden hours:** 1,200.<sup>1</sup>

<sup>1</sup> More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 2023.

Board of Governors of the Federal Reserve System, March 4, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024-04887 Filed 3-6-24; 8:45 am]

BILLING CODE 6210-01-P

## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation DD (FR DD; OMB No. 7100-0271).

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, [nuha.elmaghrabi@frb.gov](mailto:nuha.elmaghrabi@frb.gov), (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above.

### Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

**Collection title:** Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation DD.

**Collection identifier:** FR DD.

**OMB control number:** 7100-0271.

**General description of collection:** The Truth in Savings Act (TISA) was contained in the Federal Deposit Insurance Corporation Improvement Act of 1991. The FR DD is the Board's information collection associated with the CFPB's Regulation DD, which implements TISA to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms.

**Frequency:** The FR DD is triggered by specific events, and disclosures must be provided to consumers within the time periods established by TISA and Regulation DD. The Board currently estimates the frequency of disclosure as monthly, as more granular information (i.e., number of accounts subject to Regulation DD) is not readily available.

**Respondents:** Except those that are supervised by the CFPB, the FR DD panel comprises state member banks, branches of foreign banks (other than federal branches and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 of the Federal Reserve Act.

**Total estimated number of respondents:** 770.

**Total estimated annual burden hours:** 25,410.<sup>1</sup>

**Current actions:** On August 18, 2023, the Board published an initial notice in the **Federal Register** (88 FR 56627) requesting public comment for 60 days on the extension, without revision, of the FR DD. The comment period for this notice expired on October 17, 2023. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, March 4, 2024.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2024-04890 Filed 3-6-24; 8:45 am]

BILLING CODE 6210-01-P

<sup>1</sup> More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR DD.

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Reporting Requirements Associated with Emergency Lending Under Section 13(3) (FR A; OMB No. 7100-0373).

**DATES:** Comments must be submitted on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by FR A, by any of the following methods:

- **Agency Website:** <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- **Email:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the OMB number or FR number in the subject line of the message.
- **Fax:** (202) 452-3819 or (202) 452-3102.
- **Mail:** Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. 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.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and



Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:**

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, [nuha.elmaghrabi@frb.gov](mailto:nuha.elmaghrabi@frb.gov), (202) 452-3884.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

**Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

**Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection**

*Collection title:* Reporting Requirements Associated with Emergency Lending Under Section 13(3).

*Collection identifier:* FR A.

*OMB control number:* 7100-0373.

*General description of collection:*

Section 13(3) of the Federal Reserve Act provides that the Board may authorize any Federal Reserve Bank to extend credit to an individual, partnership, or corporation, subject to conditions. The Board's Regulation A establishes policies and procedures with respect to emergency lending under section 13(3). The FR A is the Board's information collection associated with Regulation A. The FR A consists of reporting requirements for entities' compliance with the terms and conditions of the emergency lending facilities.

*Proposed revisions:* The Board proposes to revise the FR A by removing certain reporting and disclosure requirements that were specific to COVID-19 era lending facility programs established in 2020, which have since ceased operation.

*Frequency:* Event-generated.

*Respondents:* Persons or entities borrowing under an emergency lending program or facility established pursuant to section 13(3).

*Total estimated number of respondents:* 10.

*Total estimated change in burden:* (257,250).

*Total estimated annual burden hours:* 55.<sup>1</sup>

Board of Governors of the Federal Reserve System, March 4, 2024.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2024-04889 Filed 3-6-24; 8:45 am]

**BILLING CODE 6210-01-P**

<sup>1</sup> More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR A.

**FEDERAL RESERVE SYSTEM**

**Proposed Agency Information Collection Activities; Comment Request**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Survey of Consumer Finances (FR 3059; OMB No. 7100-0287).

**DATES:** Comments must be submitted on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by FR 3059, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- *Email:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the OMB number or FR number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. on weekdays, except for Federal holidays. 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.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building,

Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, [nuha.elmaghrabi@frb.gov](mailto:nuha.elmaghrabi@frb.gov), (202) 452-3884.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

#### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

#### Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

*Collection title:* Survey of Consumer Finances.

*Collection identifier:* FR 3059.

*OMB control number:* 7100-0287.

*General description of collection:* This triennial survey is the only source of representative information on the structure of U.S. families' finances. The survey collects data on the assets, debts, income, work history, pension rights, use of financial services, and attitudes of a sample of U.S. families. Because the ownership of some assets is relatively concentrated in a small number of families, the survey makes a special effort to ensure proper representation of such assets by systematically oversampling wealthier families. For the 2025 survey, the Board will conduct: (1) up to 150 interviews averaging about 110 minutes (pretest) to be obtained in a test or series of tests of the survey procedures in 2025, and (2) up to 7,000 interviews averaging about 110 minutes (main survey) between April 2025 and March 2026.

*Frequency:* Triennial.

*Respondents:* U.S. families.

*Total estimated number of respondents:* 7,150.

*Total estimated annual burden hours:* 4,410.<sup>1</sup>

Board of Governors of the Federal Reserve System, March 4, 2024.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2024-04888 Filed 3-6-24; 8:45 am]

**BILLING CODE 6210-01-P**

#### FEDERAL RESERVE SYSTEM

#### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

<sup>1</sup> More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 3059.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping Requirements Associated with Regulation GG (FR GG; OMB No. 7100-0317).

**DATES:** Comments must be submitted on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by FR GG, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Email:* [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the OMB number or FR number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. 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.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of

the Chief Data Officer, Board of Governors of the Federal Reserve System, [nuha.elmaghrabi@frb.gov](mailto:nuha.elmaghrabi@frb.gov), (202) 452-3884.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

#### Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine

the extent to which the Board should modify the proposal.

#### Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

*Collection title:* Recordkeeping Requirements Associated with Regulation GG.

*Collection identifier:* FR GG.

*OMB control number:* 7100-0317.

*General description of collection:* Regulation GG—Prohibition on Funding of Unlawful internet Gambling (12 CFR part 233) is related to the Unlawful internet Gambling Enforcement Act of 2006. The FR GG is the Board's information collection associated with Regulation GG and requires participants in designated payment systems to establish written policies and procedures related to unlawful internet gambling. These recordkeeping requirements are contained in section 5 of Regulation GG. Policies and procedures reasonably designed to identify and block, or otherwise prevent or prohibit, restricted transactions are necessary because Congress found that internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

*Frequency:* Event-generated.

*Respondents:* Depository institutions, card system operators, credit unions, and money transmitting business operators.

*Total estimated number of respondents:* 4,635.

*Total estimated annual burden hours:* 46,410.<sup>1</sup>

Board of Governors of the Federal Reserve System, March 4, 2024.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2024-04891 Filed 3-6-24; 8:45 am]

**BILLING CODE 6210-01-P**

<sup>1</sup> More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR GG.

#### GENERAL SERVICES ADMINISTRATION

[Notice-Q-2024-02; Docket No. 2024-0002; Sequence No. 4]

#### Federal Secure Cloud Advisory Committee Notification of Upcoming Meeting

**AGENCY:** Federal Acquisition Service (Q), General Services Administration (GSA).

**ACTION:** Meeting notice.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act (FACA), as amended, GSA is hereby giving notice of an open public meeting of the Federal Secure Cloud Advisory Committee (FSCAC). Information on attending and providing public comment is under the **SUPPLEMENTARY INFORMATION** section.

**DATES:** The open public meeting will be held on Thursday, March 28, 2024, from 10 a.m. to 3 p.m., eastern standard time (EST). The agenda for the meeting will be made available prior to the meeting online at <https://gsa.gov/fscac>.

**ADDRESSES:** The meeting will be held in person at 1800 F St NW, Room 1461, Washington, DC 20004. The meeting will also be accessible via live stream. Registrants will receive the live stream information before the meeting.

**FOR FURTHER INFORMATION CONTACT:** Michelle White, Designated Federal Officer (DFO), FSCAC, GSA, 703-489-4160, [fscac@gsa.gov](mailto:fscac@gsa.gov). Additional information about the Committee, including meeting materials and agendas, will be available online at <https://gsa.gov/fscac>.

#### SUPPLEMENTARY INFORMATION:

##### Background

GSA, in compliance with the FedRAMP Authorization Act of 2022, established the FSCAC, a statutory advisory committee in accordance with the provisions of FACA, as amended (5 U.S.C. 10). The Federal Risk and Authorization Management Program (FedRAMP) within GSA is responsible for providing a standardized, reusable approach to security assessment and authorization for cloud computing products and services that process unclassified information used by agencies.

The FSCAC will provide advice and recommendations to the Administrator of GSA, the FedRAMP Board, and agencies on technical, financial, programmatic, and operational matters regarding the secure adoption of cloud computing products and services. The FSCAC will ensure effective and ongoing coordination of agency

adoption, use, authorization, monitoring, acquisition, and security of cloud computing products and services to enable agency mission and administrative priorities. The purposes of the Committee are:

- To examine the operations of FedRAMP and determine ways that authorization processes can continuously be improved, including the following:
  - Measures to increase agency reuse of FedRAMP authorizations.
  - Proposed actions that can be adopted to reduce the burden, confusion, and cost associated with FedRAMP authorizations for cloud service providers.
  - Measures to increase the number of FedRAMP authorizations for cloud computing products and services offered by small businesses concerns (as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).
  - Proposed actions that can be adopted to reduce the burden and cost of FedRAMP authorizations for agencies.
- Collect information and feedback on agency compliance with, and implementation of, FedRAMP requirements.

- Serve as a forum that facilitates communication and collaboration among the FedRAMP stakeholder community.

The FSCAC will meet no fewer than three (3) times a calendar year. Meetings shall occur as frequently as needed, called, and approved by the DFO.

#### Purpose of the Meeting and Agenda

The March 28, 2024 public meeting will be dedicated to deliberations in order to determine what priority or priorities the Committee would like to work on next. Presentations may be held on updates to the Office of Management and Budget's (OMB) draft Memorandum titled "Modernizing the Federal Risk Authorization Management Program (FedRAMP)" (OMB Draft Memo), FedRAMP's updates in response to the OMB Draft Memo, and Third Party Assessment Organization (3PAO) user experiences with the FedRAMP process. A vote will be held to approve the priority or priorities the Committee chooses to work on next. The meeting agenda will be posted on <https://gsa.gov/fscac> prior to the March 28, 2024 meeting.

#### Meeting Attendance

This meeting is open to the public and can be attended in-person or virtually using the live stream link. Meeting registration and information is available at <https://gsa.gov/fscac>.

Registration for attending the meeting in person is highly encouraged by 5 p.m. on Thursday, March 21, 2024 for easier building access. In-person public attendance is limited to the available space, and seating is available on a first come, first serve basis.

If you plan to attend virtually, you will need to register by 5 p.m. on Thursday, March 21, 2024 to obtain the virtual meeting information. After registration, individuals will receive meeting attendance information via email.

For information on services for individuals with disabilities, or to request accommodation for a disability, please email the FSCAC staff at [FSCAC@gsa.gov](mailto:FSCAC@gsa.gov) at least 10 days prior to the meeting. Live captioning may be provided virtually, and ASL interpreters may be present onsite.

#### Public Comment

Members of the public will have the opportunity to provide oral public comment during the FSCAC meeting by indicating their preference when registering. Written public comments can be submitted at any time by completing the public comment form on our website, <https://gsa.gov/fscac>. All written public comments will be provided to FSCAC members in advance of the meeting if received by Wednesday, March 20, 2024.

**Margaret Dugan,**

*Service-Level Liaison, Federal Acquisition Service, General Services Administration.*

[FR Doc. 2024-04844 Filed 3-6-24; 8:45 am]

**BILLING CODE 6820-34-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed updates to the currently approved information collection project: "Implementation and Testing of Diagnostic Safety Resources." In accordance with the Paperwork Reduction Act of 1995, AHRQ invites

the public to comment on this proposed information collection.

**DATES:** Comments on this notice must be received by May 6, 2024.

**ADDRESSES:** Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at [REPORTSCLEARANCEOFFICER@ahrq.hhs.gov](mailto:REPORTSCLEARANCEOFFICER@ahrq.hhs.gov).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

#### FOR FURTHER INFORMATION CONTACT:

Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by email at [REPORTSCLEARANCEOFFICER@ahrq.hhs.gov](mailto:REPORTSCLEARANCEOFFICER@ahrq.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

#### Proposed Project

#### Implementation and Testing of Diagnostic Safety Resources

Patient safety is a pillar of the Agency for Healthcare Research and Quality's (AHRQ's) mission to support the highest quality healthcare. While progress has been made in many areas of patient safety, the field of diagnostic safety has emerged as a particular area of concern. It is estimated that every person in the United States will experience a diagnostic error in their lifetime (Institute of Medicine, 2015) which can lead to inappropriate, delayed, or withheld treatment and ultimately poor health outcomes, distress, and increased costs. Diagnostic errors can occur for many reasons: lack of meaningful engagement between clinicians, patients, and families; a fragmented healthcare system not designed to account for an increasingly complex diagnostic process; minimal (if any) feedback to clinicians about their diagnostic performance; and a culture that does not always support transparent disclosure of diagnostic errors (Institute of Medicine, 2015). Leaders in diagnostic excellence suggest that multi-pronged efforts are needed to address this complex problem and go beyond individual behaviors to system-level changes and empowering patients to engage in their care (Institute of Medicine, 2015; Henriksen, et al., 2017).

Improving diagnostic safety and quality is an AHRQ priority. In recognition of the multifaceted approach needed to effectively advance diagnostic safety, AHRQ recently supported the development of three tools to prevent diagnostic errors and have prioritized these tools for implementation and testing. These resources vary in the types of stakeholders they target, a critical

advancement in our approach to diagnostic excellence.

- *Calibrate Dx*. This tool, targeted to individual clinicians, invites users to select a topic or condition, review diagnostic performance on a sample of cases for insights and learning opportunities, and debrief with a peer. *This resource will be tested in all settings where clinicians are involved in the diagnostic process, including both inpatient and ambulatory settings.*

- *Measure Dx*. This tool supports healthcare organizations in building sustainable teams for improving diagnostic excellence, identifying current capacity gaps, engaging in measurement strategies as part of a systematic approach to reviewing available data, and translating findings into learning opportunities. *This resource will be tested in both inpatient and ambulatory settings; it is expected to be implemented more commonly in inpatient settings.*

- *Toolkit for Engaging Patients to Improve Diagnostic Safety (Patient Toolkit)*. This tool prepares patients, families, and health professionals to work together as partners to improve diagnostic safety; encourages patients to prepare for visits; and encourages providers to listen for 60 seconds before interrupting the patient. *This resource will be tested in ambulatory settings only.*

The goal of this research is to implement and test these three diagnostic safety resources to identify specific ways in which each resource can be used to maximize its value. For each resource the following will be examined:

- (1) Feasibility of implementation—barriers, facilitators, success factors, and time needed for implementation
- (2) Level of adoption—number and type of clinicians aware of and/or using the resource, number of organizational leaders endorsing the resource
- (3) Effectiveness of the resource—number of diagnostic safety events (Measure Dx and Patient Toolkit), clinician self-efficacy for diagnostic decision-making (Calibrate Dx)
- (4) Maintenance and sustainability—the number and type of patient safety processes in place, barriers and facilitators to maintenance and sustainability

This project will implement and test these three diagnostic safety resources across a minimum of 150 sites to up to 219 sites (*i.e.*, 50 to 73 sites per resource). An Implementation and Testing period for each resource will

last 12 months, with Calibrate Dx starting implementation first and Measure Dx and the Toolkit for Engaging Patients starting implementation six months later. This timing allows for staggered recruitment to ensure adequate sample size and to pilot implementation processes with a single diagnostic safety resource first, transferring lessons learned about implementation and testing to the implementation of the two other resources. A Sustainability period will begin as soon as the 12-month Implementation and Testing Period is complete and will continue for 14 additional months for each resource.

To achieve the goals of this project the following data collections will be implemented:

1. *Site Interest Form*—A short form completed once by up to 1,060 sites interested in participating in the project. Used to indicate interest in the project and by AHRQ to evaluate whether the site meets the minimum participation criteria.

2. *Site Information Form*—Completed once by site leaders at 265 sites that begin the project enrollment process, this form collects additional contact information, data on patient mix, and information on the organization's diagnostic safety teams, resource commitments, and capacity for implementing the resources.

3. *Safer Dx Checklist*—Completed once by 219 sites who fully complete enrollment activities and begin implementation of one of the three resources (82.6% of the 265 sites who begin enrollment activities). The Safer Dx Checklist is a tool that allows healthcare organizations to understand the current state of their diagnostic practices, identify areas to improve, and track progress toward diagnostic excellence over time. This will be completed prior to actual implementation of the resource.

4. *Exit Interviews Protocol*—Completed once by an estimated 69 sites (30% of those implementing one of the three resources) that withdraw from the project, this telephone interview will collect information on why the site could not sustain their efforts or participation.

5. A baseline assessment of patient safety culture will be conducted once for each of the 219 sites that begin participation. Completed once by site leads depending on the setting:

- a. *SOPS® Medical Office Survey with Diagnostic Safety Supplemental Item Set*—Completed once by the site lead for 109 ambulatory clinics.

- b. *SOPS® Hospital Survey with Diagnostic Safety Supplemental Item*

*Set*—Completed once by the site lead for 110 inpatient sites.

6. *Post-training Evaluation Form*—Completed once by 1,350 clinicians and managers (90% of the 1,500 participants) attending the project's training sessions. The data will be used to track the perceived value of the training provided to enrolled sites.

7. *Post-technical Assistance Evaluation Form*—Administered up to 3 times to 1,500 clinicians and managers participating in the project's Learning Collaborative sessions; an estimated 90% response rate to this collection with a total of 4,050 forms completed. The data will be used to track the perceived value of the technical assistance provided to enrolled sites.

8. *Clinical Sustainability Assessment Tool (CSAT)*—Completed by 219 site leaders once between months 9 to 12 in advance of the 14-month sustainability period. The CSAT is a self-assessment to evaluate sustainability capacity of a clinical practice.

9. *Implementation Interviews Protocol*—A qualitative, semi-structured interview will be conducted with 438 site leads and/or frontline staff (up to 2 individuals from each site) at two points in time during implementation (*e.g.*, 6- and 18-months). The protocol is designed to elicit participant perspectives on implementation of the resource, capture lessons learned and best practices, and when possible, to provide support for adjustment to the implementation.

In addition to those noted above, the project will implement the following data collections specific to the individual resources.

For Measure Dx, the following data collections will be implemented:

10. *Measure Dx Organizational Self-Assessment*—This is one of the main components of the Measure Dx resource and is designed to gauge the organization's readiness to engage with Measure Dx. This checklist will be completed once by up to 73 Measure Dx sites during the project onboarding process.

11. *Measure Dx Declaration of Measurement Strategy*—The 73 Measure Dx sites will complete this form once to indicate their selection of measurement strategy to be implemented and provide confirmation of minimum necessary capabilities.

12. *Diagnostic Safety Event Report*—These reports will provide aggregate information on diagnostic safety events identified during a 12-month reporting period. The report will be completed by each participating site 3 times over the course of the testing and sustainability period at 3-, 12-, and 24-months; a total

of 219 reports will be completed over the course of the project. Note that the contractor is not attempting to collect these reports at Month 0. Since part of the Measure Dx resource's goal is to support implementation of a measurement strategy, Month 3 will serve as the baseline.

13. Additional information on site safety culture, including use of diagnostic safety event data, activities to improve the quality of care, and the work environment will be collected through a survey at 3-, 12-, and 24-months during the implementation/sustainment. Five members of the Measure Dx team at each site will be surveyed; the expected response rate is 85% at each of the three administration periods. Depending on the setting, the following survey will be fielded:

a. *Omnibus Safety and Culture Survey\_Medical Offices*—Completed by clinicians at 36 ambulatory clinics.

b. *Omnibus Safety and Culture Survey\_Hospitals*—Completed by clinicians at 37 inpatient sites.

For Calibrate Dx, the following data collections will be implemented:

14. *Calibrate Dx Survey*—This survey collects clinicians' reflections on their diagnostic performance for 3–5 cases, with additional metrics around time to complete the review and the number of cases reviewed. This will be completed quarterly (following the Calibrate Dx guidance for implementation) during the implementation and testing period by up to 5 clinicians per site; with an estimated a 90% response rate to this collection.

15. *Clinician Self-Efficacy Survey*—The survey assesses clinician self-efficacy with diagnostic safety case review and improvement. Up to 5 clinicians per site will be asked to complete this survey two times, after training and again at the end of the testing phase, with an estimated 90% response rate to this collection.

For Patient Toolkit, the following data collections will be implemented:

16. *Provider Characteristics Form*—This form will be completed once by up to 15 providers at each of the 73 enrolled sites. This form collects information on practitioner type, years in practice, specialty, subspecialty, and percent of time spent in clinical practice.

17. *Patient Toolkit Survey—Provider*—This survey assesses provider-perceived skills and quality of communication. It will be administered to up to 15 providers at each site at five timepoints (Baseline, 3-, 6-, 9-, and 12-months), with a 90% anticipated response rate.

18. *Provider Interview Protocol*—A total of 50 qualitative, semi-structured interviews with site clinicians will be conducted during implementation. The interview protocol collects information related to diagnostic safety events; patient safety culture; feasibility, acceptability, utility, adoption, and spread of the Patient Toolkit; and insights into clinician experience.

19. *Patient Toolkit Survey*—Patient—The survey assesses patient-perceived experience and quality of communication, and collects basic patient demographics (e.g., age, gender, education, race, ethnicity). This will be administered to site patients over a 1-week period at five timepoints (Baseline, 3-, 6-, 9-, and 12-months). The survey will be provided to patients upon check-out from a healthcare visit. A total of 12,500 surveys will be completed during each 1-week period.

20. *Patient Interview Protocol*—A total of 50 qualitative, semi-structured interviews will be completed with site patients during implementation. The interview protocol collects information on reason for visit, provider communication, and other insights into patient experience.

This study is being conducted by AHRQ through its contractor, RAND, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness, and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

#### Method of Collection

The data collection methods for this evaluation were selected to reduce participant burden and, where possible, to allow participants a choice of response mode. In addition, technology is used for data capture and qualitative coding and analysis.

Several forms and data collection instruments will be administered using a web mode. Site leads and participants will receive a link allowing them to complete the form online. The Site Interest Form will also be accepted as a hardcopy should organizations prefer to mail or fax these forms. All other forms will be administered either by a fillable form that can be returned via email, mail, or fax depending on the site or participant preference.

Interviews will be conducted by phone or video call (e.g., Microsoft Teams, Zoom) with interviewers using a hardcopy version of the protocol. Interviews will be audio-recorded and

transcribed, following verbal consent from participants. Qualitative software will be used for data coding and analysis of interviews.

The patient surveys will be provided to patients upon check-out from a healthcare visit and they will be encouraged to complete the survey before leaving the office. The survey will include a QR code to allow patients to access a web version of the form. Alternatively, the patient can complete the paper survey and it will be collected at the site, minimizing the need for patients to return the paper survey by mail. The paper surveys will be formatted for data scanning, and data from all paper surveys returned to the contractor will be scanned into an electronic datafile.

#### Estimated Annual Respondent Burden

This section summarizes the total burden hours for this information collection effort in addition to the cost associated with those hours.

Exhibit 1 contains estimated response burdens for each subject population participating in the evaluation's data collection activities.

1. *Site Interest Form*—A physician or manager at an interested site will complete the form only once to indicate interest in participating. The form will be completed by 1,060 respondents and requires 6 minutes to complete.

2. *Site Information Form*—A physician or manager at an interested site will complete the form only once to provide additional contact information, data on patient mix, and information on the organization's diagnostic safety teams, resource commitments, and capacity for implementing the resources. The form will be completed by 265 respondents and requires 20 minutes to complete.

3. *Safer Dx Checklist*—A physician or manager at participating sites will complete the form only once to allow the participating site to understand the current state of their diagnostic practices, identify areas to improve, and track progress toward diagnostic excellence over time. The form will be completed by 219 respondents and requires 15 minutes to complete.

4. *Exit Interviews Protocol*—A physician or manager at sites that withdraw from the project will complete the form once to provide information on why the site could not sustain their efforts or participation. The form will be completed by 69 respondents and requires 10 minutes to complete.

5a. *SOPS® Medical Office Survey with Diagnostic Safety Supplemental Item Set*—A physician or manager at participating ambulatory sites will

complete the form to provide a baseline assessment of patient safety culture. The form will be completed by 109 respondents and requires 15 minutes to complete.

5b. *SOPS® Hospital Survey with Diagnostic Safety Supplemental Item Set*—A physician or manager at participating hospital sites will complete the form to provide a baseline assessment of patient safety culture. The form will be completed by 110 respondents and requires 15 minutes to complete.

6. *Post-training Evaluation Form*—A physician, nurse practitioner, physician assistant, or manager will complete the form once to indicate the perceived value of the training provided to participating sites. The form will be completed by 1350 respondents and requires 3 minutes to complete.

7. *Post-technical Assistance Evaluation Form*—A physician, nurse practitioner, physician assistant, or manager will complete the form up to three times to indicate the perceived value of the technical assistance provided to participating sites. The form will be completed by 1350 respondents, three times, and requires 2 minutes to complete.

8. *Clinical Sustainability Assessment Tool (CSAT)*—A physician or manager at participating sites will complete the form to evaluate the sustainability capacity of a clinical practice. The form will be completed by 219 respondents and requires 15 minutes to complete.

9. *Implementation Interviews Protocol*—A physician, nurse practitioner, physician assistant, or manager will participate in an interview two times to provide their perspectives at different stages of the implementation. The interview will be completed by up to 438 respondents, two times, and requires 1 hour to complete.

10. *Measure Dx Organizational Self-Assessment*—A physician, nurse practitioner, physician assistant, or manager will complete the form only once to gauge the organization's readiness to engage with Measure Dx. The form will be completed by 73

respondents and requires 30 minutes to complete.

11. *Measure Dx Declaration of Measurement Strategy*—A physician, nurse practitioner, physician assistant, or manager will complete the form only once to indicate their selection of measurement strategy to be implemented and provide confirmation of minimum necessary capabilities. The form will be completed by 73 respondents and requires 5 minutes to complete.

12. *Diagnostic Safety Event Report*—A physician, nurse practitioner, physician assistant, or manager will complete the form three times to provide aggregate information on diagnostic safety events. The form will be completed by 73 respondents, three times, and requires 1 hour to complete.

13a. *Omnibus Safety and Culture Survey\_Medical Offices*—A physician, nurse practitioner, physician assistant, or manager will complete the form three times to provide information on safety culture at ambulatory sites. The form will be completed by 162 respondents, three times, and requires 20 minutes to complete.

13b. *Omnibus Safety and Culture Survey\_Hospitals*—A physician, nurse practitioner, physician assistant, or manager will complete the form three times to provide information on safety culture at inpatient sites. The form will be completed by 167 respondents, three times, and requires 20 minutes to complete.

14. *Calibrate Dx Survey*—A physician, nurse practitioner, or physician assistant will complete the form four times to provide reflections on their diagnostic performance for 3–5 cases, with additional metrics around time to complete the review and the number of cases reviewed. The form will be completed by 329 respondents, four times, and requires 30 minutes to complete.

15. *Clinician Self-Efficacy Survey*—A physician, nurse practitioner, or physician assistant will complete the form two times to provide information on their self-efficacy with diagnostic safety case review and improvement.

The form will be completed by 329 respondents, two times, and requires 3 minutes to complete.

16. *Provider Characteristics Form*—A physician, nurse practitioner, or physician assistant will complete the form once to provide information on practitioner type, years in practice, specialty, subspecialty, and percent of time spent in clinical practice. The form will be completed by 986 respondents and requires 1 minute to complete.

17. *Patient Toolkit Survey—Provider*—A physician, nurse practitioner, or physician assistant will complete the form five times to provide information on provider-perceived skills and quality of communication. The form will be completed by 986 respondents, five times, and requires 2 minutes to complete.

18. *Provider Interview Protocol*—A physician, nurse practitioner, or physician assistant will participate in an interview once to provide information related to diagnostic safety events; patient safety culture; feasibility, acceptability, utility, adoption, and spread of the Patient Toolkit; and insights into clinician experience. The interview will be completed by up to 50 respondents and requires 45 minutes to complete.

19. *Patient Toolkit Survey—Patient*—Patients will complete the form only once to provide information on their experience and quality of communication, and demographics information. The form will be completed by 62,500 respondents and requires 5 minutes to complete.

20. *Patient Interview Protocol*—Patients will participate in an interview once to provide information on reason for visit, provider communication, and other insights into patient experience. The interview will be completed by up to 50 respondents and requires 45 minutes to complete.

For the three-year clearance period, the estimated annualized burden hours for the data collection activities are 8,195.

#### EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

| Form name  | Number of respondents | Number of responses per respondent | Hours per response | Total burden hours |
|--|-----------------------|------------------------------------|--------------------|--------------------|
| 1: Site Interest Form .....  | 1,060                 | 1                                  | 6/60               | 106                |
| 2: Site Information Form .....   | 265                   | 1                                  | 20/60              | 88                 |
| 3: Safer Dx Checklist .....  | 219                   | 1                                  | 15/60              | 55                 |
| 4: Exit Interviews Protocol .....  | 69                    | 1                                  | 10/60              | 12                 |
| 5a: SOPS® Medical Office Survey with Diagnostic Safety Supplemental Item Set ..... | 109                   | 1                                  | 15/60              | 27                 |
| 5b: SOPS® Hospital Survey with Diagnostic Safety Supplemental Item Set .....       | 110                   | 1                                  | 15/60              | 28                 |



## EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Form name  | Number of respondents | Number of responses per respondent | Hours per response | Total burden hours |
|--|-----------------------|------------------------------------|--------------------|--------------------|
| 6: Post-training Evaluation Form .....                       | 1,350                 | 1                                  | 3/60               | 68                 |
| 7: Post-technical Assistance Evaluation Form .....           | 1,350                 | 3                                  | 2/60               | 135                |
| 8: Clinical Sustainability Assessment Tool (CSAT) .....      | 219                   | 1                                  | 15/60              | 55                 |
| 9: Implementation Interviews Protocol .....                  | 438                   | 2                                  | 1                  | 876                |
| 10: Measure Dx Organizational Self-Assessment .....          | 73                    | 1                                  | 30/60              | 37                 |
| 11: Measure Dx Declaration of Measurement Strategy .....     | 73                    | 1                                  | 5/60               | 6                  |
| 12: Diagnostic Safety Event Report .....                     | 73                    | 3                                  | 1                  | 219                |
| 13a: Omnibus Safety and Culture Survey_Medical Offices ..... | 162                   | 3                                  | 20/60              | 162                |
| 13b: Omnibus Safety and Culture Survey_Hospitals .....       | 167                   | 3                                  | 20/60              | 167                |
| 14: Calibrate Dx Survey .....                                | 329                   | 4                                  | 30/60              | 657                |
| 15: Clinician Self-Efficacy Survey .....                     | 329                   | 2                                  | 3/60               | 33                 |
| 16: Provider Characteristics Form .....                      | 986                   | 1                                  | 1/60               | 16                 |
| 17: Patient Toolkit Survey-Provider .....                    | 986                   | 5                                  | 2/60               | 164                |
| 18: Provider Interview Protocol .....                        | 50                    | 1                                  | 45/60              | 38                 |
| 19: Patient Toolkit Survey—Patient .....                     | 62,500                | 1                                  | 5/60               | 5,208              |
| 20: Patient Interview Protocol .....                         | 50                    | 1                                  | 45/60              | 38                 |
| Total .....  | .....                 | .....                              | .....              | 8,195              |

Exhibit 2 shows the estimated collection forms. The total cost burden annualized cost burden based on the is estimated to be \$457,432. respondents' time to complete the data

## EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

| Form name  | Number of respondents | Total burden hours | Average hourly wage rate * | Total cost burden |
|--|-----------------------|--------------------|----------------------------|-------------------|
| 1: Site Interest Form .....  | 1060                  | 106                | <sup>a</sup> \$97.30       | \$10,314          |
| 2: Site Information Form .....   | 265                   | 88                 | <sup>a</sup> 97.30         | 8,562             |
| 3: Safer Dx Checklist .....  | 219                   | 55                 | <sup>a</sup> 97.30         | 5,352             |
| 4: Exit Interviews Protocol .....  | 69                    | 12                 | <sup>a</sup> 97.30         | 1,168             |
| 5a: SOPS® Medical Office Survey with Diagnostic Safety Supplemental Item Set ..... | 109                   | 27                 | <sup>a</sup> 97.30         | 2,627             |
| 5b: SOPS® Hospital Survey with Diagnostic Safety Supplemental Item Set .....       | 110                   | 28                 | <sup>a</sup> 97.30         | 2,724             |
| 6: Post-training Evaluation Form .....   | 1350                  | 68                 | <sup>b</sup> 102.90        | 6,997             |
| 7: Post-technical Assistance Evaluation Form .....                                 | 1350                  | 135                | <sup>b</sup> 102.90        | 13,892            |
| 8: Clinical Sustainability Assessment Tool (CSAT) .....                            | 219                   | 55                 | <sup>a</sup> 97.30         | 5,352             |
| 9: Implementation Interviews Protocol .....  | 438                   | 876                | <sup>b</sup> 102.90        | 90,140            |
| 10: Measure Dx Organizational Self-Assessment .....                                | 73                    | 37                 | <sup>b</sup> 102.90        | 3,807             |
| 11: Measure Dx Declaration of Measurement Strategy .....                           | 73                    | 6                  | <sup>b</sup> 102.90        | 617               |
| 12: Diagnostic Safety Event Report .....   | 73                    | 219                | <sup>b</sup> 102.90        | 22,535            |
| 13a: Omnibus Safety and Culture Survey_Medical Offices .....                       | 162                   | 162                | <sup>b</sup> 102.90        | 16,670            |
| 13b: Omnibus Safety and Culture Survey_Hospitals .....                             | 167                   | 167                | <sup>b</sup> 102.90        | 17,184            |
| 14: Calibrate Dx Survey .....  | 329                   | 657                | <sup>c</sup> 102.83        | 67,559            |
| 15: Clinician Self-Efficacy Survey .....   | 329                   | 33                 | <sup>c</sup> 102.83        | 3,393             |
| 16: Provider Characteristics Form .....  | 986                   | 16                 | <sup>c</sup> 102.83        | 1,645             |
| 17: Patient Toolkit Survey-Provider .....  | 986                   | 164                | <sup>c</sup> 102.83        | 16,864            |
| 18: Provider Interview Protocol .....  | 50                    | 38                 | <sup>c</sup> 102.83        | 3,908             |
| 19: Patient Toolkit Survey—Patient .....   | 62500                 | 5208               | <sup>d</sup> 29.76         | 154,990           |
| 20: Patient Interview Protocol .....   | 50                    | 38                 | <sup>d</sup> 29.76         | 1,131             |
| Total .....  | .....                 | .....              | .....                      | 457,432           |

\* National Compensation Survey: Occupational wages in the United States May 2022, "U.S. Department of Labor, Bureau of Labor Statistics."

<sup>a</sup> Based on the weighted mean hourly wage for physicians (broad) (\$121.15; occupation code 29–1210; 60%) and Medical and Health Services Managers (\$61.53; Code 11–9111; 40%).

<sup>b</sup> Based on the weighted mean hourly wage for physicians (broad) (\$121.15; occupation code 29–1210; 70%); nurse practitioners (broad) (\$59.94; occupation code 29–1170; 15%); physician assistants (broad) (\$60.23; occupation code 29–1070; 10%); and medical and health services managers (broad) (\$61.53; Code 11–9111; 5%).

<sup>c</sup> Based on the weighted mean hourly wage for physicians (broad) (\$121.15; occupation code 29–1210; 70%); nurse practitioners (broad) (\$59.94; occupation code 29–1170; 15%); and physician assistants (broad) (\$60.23; occupation code 29–1070; 15%).

<sup>d</sup> Based on the mean wages for All Occupations (Code 00–0000).

**Request for Comments**

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: March 1, 2024.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2024–04786 Filed 3–6–24; 8:45 am]

**BILLING CODE 4160–90–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Disease Control and Prevention**

#### **Reorganization of the National Institute for Occupational Safety and Health**

**AGENCY:** Centers for Disease Control and Prevention (CDC), the Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** CDC has modified its structure. This notice announces the reorganization of the World Trade Center (WTC) Health Program within the National Institute for Occupational Safety and Health (NIOSH). The WTC Health Program has established three branches.

**DATES:** This reorganization was approved by the HHS Secretary on March 4, 2024, and became effective.

**FOR FURTHER INFORMATION CONTACT:** D'Artonya Graham, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Office of the Director, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS

TW–2, Atlanta, GA 30329; Telephone 770–488–4401; Email: [reorgs@cdc.gov](mailto:reorgs@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at Vol. 88, No. 132, pg. 44359–44363, dated July 12, 2023) is amended to reflect the reorganization of the World Trade Center (WTC) Health Program, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC). Specifically, the changes are as follows:

I. Under Part C, Section C–B, Organization and Functions, insert the following:

- Office of the Director (CCP1)
- Healthcare Benefits Branch (CCPB)
- Research and Evaluation Branch (CCPC)
- Business Operations Branch (CCPD)

II. Under Part C, Section C–B, Organization and Functions, after the World Trade Center Health Program (CCP) insert the following:

*Office of the Director (CCP1).* Conducts the legislatively mandated World Trade Center (WTC) Health Program established by the James Zadroga 9/11 Health and Compensation Act of 2010, as amended. (1) Provides management, strategic planning and oversight, budget formulation and execution, science and medical policy oversight and development, industry expertise, and contract transition oversight; (2) consults with stakeholders in carrying out the WTC Health Program mission, develops and disseminates all WTC Health Program communications, and provides oversight for public relations and media strategy; and (3) oversees all program statutory directives in the Zadroga Act to provide medical monitoring and treatment to eligible responders and survivors who were affected by the September 11, 2001, terrorist attacks.

*Healthcare Benefits Branch (CCPB).* The Healthcare Benefits Branch confirms eligibility for Program benefits and implements a limited health benefits model to provide quality and compassionate medically necessary treatment and monitoring of WTC-related health conditions to eligible members in the WTC Health Program. Specifically, the branch: (1) develops recommendations for the Administrator of the WTC Health Program for medical coverage determinations including

medically necessary diagnostic, cancer screening, and treatment services allowed under the WTC Health Program; (2) establishes and maintains the pharmaceutical formulary and conducts compliance as well as outlier audits with the Pharmacy Benefit Manager, Clinical Centers of Excellence, and the Nationwide Provider Network vendors; (3) provides subject matter expertise to contracting officer representatives for contracts such as the Clinical Centers of Excellence, Nationwide Provider Network, Cost Avoidance, and Pharmacy Benefit Manager contract statements of work; (4) provides enrollment recommendations to the Administrator of the WTC Health Program for of WTC responders and survivors and Pentagon and Shanksville responders and follows statutory and regulatory requirements and approved process and procedures to enroll members into the WTC Health Program; (5) processes certification of member's WTC-related health conditions eligible for treatment coverage in the WTC Health Program and follows statutory and regulatory requirements and approved processes and procedures to issue certification decisions on behalf of the Administrator of the WTC Health Program; (6) develops medical and pharmacy benefit coverage determinations and issues coverage decisions on prior authorization requests for medical services, durable medical equipment, supplies, and pharmaceuticals; (7) coordinates working groups, such as the Pharmaceutical and Therapeutics Working Group, with stakeholder clinicians for continuing education and alignment with program formulary changes; (8) provides oversight and expertise to Clinical Centers of Excellence and Nationwide Provider Network on case management, care coordination, and utilization management; (9) designs and manages the medical diagnosis and procedural services codebook, which supports benefit access for covered conditions and approved services with utilization limitations; (10) supports members through customer support and by coordinating and managing call centers, issues written member correspondence, and supports member transfers; (11) coordinates, on behalf of the Administrator of the WTC Health Program, certification, enrollment, and treatment appeals following statutory and regulatory requirements and approved processes and procedures; (12) serves as subject matter experts for vendors, particularly for outreach and education vendors on program

eligibility and available services; and (13) works with vendors, primarily the Health Program Support/Third Party Administrator vendor and the Centers for Medicare & Medicaid Services (CMS), to ensure providers receive appropriate reimbursement for initial health evaluations, annual medical monitoring, cancer screening, diagnostic services, and treatment of covered health conditions.

*Research and Evaluation Branch (CCPC).* The Research and Evaluation Branch establishes and manages a research agenda and research translation program to increase understanding of 9/11 health effects as well as to improve WTC Health Program member health and well-being. Specifically, the branch: (1) establishes an evaluation program for quality management and program integrity and improvement; (2) establishes a research agenda to address existing knowledge gaps, investigate the emergence of health conditions linked to 9/11 exposures, and build upon current knowledge for research translation; (3) designs the competitive funding opportunity announcements in coordination with the NIOSH Office of Extramural Programs; (4) establishes a process to obtain insight from community members, patients, and other stakeholders that helps shape the evolving research agenda over time; (5) conducts reviews—through assessing and integrating data sources—to identify research gaps, using the Program's logic model on research translation; (6) reviews and assesses information on potential emerging conditions that should be further evaluated and utilizes research solicitations in doing so; (7) conducts scientific reviews of the literature to determine if new health conditions, including those petitioned by interested parties, should be recommended to the Administrator of the WTC Health Program for addition to the List of WTC-Related Health Conditions; (8) ensures that the WTC database of research publications is maintained and current; (9) aids in administering the statutorily-established WTC Health Program Scientific/Technical Advisory Committee; (10) supports, develops, and implements research products, such as research seminars, science blogs, and a research summary database, to disseminate information about research findings and assist in the translation of those findings to the member healthcare component of the Program; (11) ensures uniform data collection and scientific data integration; supports collaboration between the Data Centers and the WTC Health Registry; and oversees the

transfer of member data from the Nationwide Provider Network to the cohort-specific Data Center(s) for inclusion in health surveillance analyses and program-funded research; (12) coordinates and evaluates administrative quality control and enterprise risk management for the WTC Health Program; (13) implements the WTC Health Program's approved processes and procedures to identify and address fraud, waste, and abuse; (14) provides subject matter expertise for administrative and clinical quality metrics for the Clinical Centers of Excellence, the Nationwide Provider Network, and the Pharmacy Benefit Manager contract statements of work; (15) ensures the 9/11 exposure-based WTC Health Registry is maintained in accordance with statutory requirements and that appropriate analysis plans are implemented; and (16) provides subject matter expertise for the WTC Health Program annual report to Congress and government audits of the WTC Health Program.

*Business Operations Branch (CCPD).* The Business Operations Branch leads strategic acquisition planning as well as the development and dissemination of technical documentation to support the division. Specifically, the branch: (1) improves the WTC Health Program's efficiency through process improvement and solution development and workforce management and development; (2) oversees training, project management, and travel; (3) develops and oversees acquisition and procurement strategy, the acquisition plan and performance work statements for contract awards—for the Clinical Centers of Excellence, Data Centers, Nationwide Provider Network, Pharmacy Benefit Manager, Health Program Support/Third Party Administrator, and for other support contracts—to carry out the mission of the WTC Health Program in coordination with the CDC Office of Acquisitions; (4) manages the reimbursement of the Clinical Centers of Excellence and the Nationwide Provider Network for infrastructure costs, the Data Centers, Pharmacy Benefit Manager, Health Program Support/Third Party Administrator, and other support contracts; (5) implements agreement with New York City for purposes of collecting 10% of specified Program expenses, in accordance with the authorizing legislation; (6) administers and/or collects recoupments from private insurance and workers compensation; (7) enters into agreement(s) with CMS for provider reimbursements; (8) ensures all

requirements pursuant to the Health Information Portability and Accountability Act (HIPAA) and implementing regulations are followed and coordinates implementation of approved processes and procedures to ensure member information is securely transmitted and used in alignment with both HIPAA and the Privacy Act; (9) ensures compliance with all records management requirements and that WTC Health Program data and records are maintained in alignment with agency and National Archives and Records Administration requirements; and (10) provides expertise to the division on process improvement and use of technology and business solutions to meet the division's missions.

#### Delegations of Authority

All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

(Authority: 44 U.S.C. 3101)

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2024-04901 Filed 3-6-24; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[Document Identifiers: CMS-10440]

#### Agency Information Collection Activities: Proposed Collection; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our

burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by May 6, 2024.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: \_\_\_\_\_, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786-4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

**CMS-10440** Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Health Benefits Exchanges, Medicaid and CHIP Agencies

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:* Revision of a currently approved collection; *Title of Information Collection:* Data Collection to Support Eligibility Determinations for Insurance Affordability Programs and Enrollment through Health Benefits Exchanges, Medicaid and CHIP Agencies; *Use:* Section 1413 of the Affordable Care Act directs the Secretary of Health and Human Services to develop and provide to each state a single, streamlined application form that may be used to apply for coverage through a Marketplace and for APTC/CSR, Medicaid, and CHIP (which we refer to collectively as insurance affordability programs). The application must be structured to maximize an applicant's ability to complete the form satisfactorily, taking into account the characteristics of individuals who may qualify for the programs by developing materials at appropriate literacy levels and ensuring accessibility.

45 CFR 155.405(a) provides more detail about the application that must be used by Marketplaces to determine eligibility and to collect information necessary for enrollment. Eligibility standards for the Marketplace are set forth in 45 CFR 155.305. The information will be required of each applicant upon initial application, with some subsequent information collections for the purposes of confirming accuracy of previous submissions and for changes in an applicant's circumstances. 42 CFR 435.907 and 457.330 establish the standards for state Medicaid and CHIP agencies related to the use of the application. CMS has designed a dynamic electronic application that will tailor the amount of data required from an applicant based on the applicant's circumstances and responses to

particular questions in the FFM (please note SBM implementations may vary but the essence of the data collection must adhere to the same parameters). The paper version of the application will not be tailored in the same way but will require only the data necessary to determine eligibility.

Information collected by the Marketplace, Medicaid or CHIP agency will be used to determine eligibility for coverage through the Marketplace and insurance affordability programs (*i.e.*, Medicaid, CHIP, and APTC), and assist consumers in enrolling in a QHP if eligible. Applicants include anyone who may be eligible for coverage through any of these programs. Additionally, this application provides consumers interested in voting resources. *Form Number:* CMS-10440 (OMB control number: 0938-1191); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 5,550,000; *Total Annual Responses:* 5,550,000; *Total Annual Hours:* 2,446,440. (For policy questions regarding this collection contact Erin Richardson at 202-619-0630.)

**William N. Parham, III,**

*Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2024-04878 Filed 3-6-24; 8:45 am]

**BILLING CODE 4120-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2024-N-0008]

**Advisory Committee; Gastrointestinal Drugs Advisory Committee; Renewal**

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

**ACTION:** Notice; renewal of Federal advisory committee.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is announcing the renewal of the Gastrointestinal Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Gastrointestinal Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the March 3, 2026, expiration date.

**DATES:** Authority for the Gastrointestinal Drugs Advisory Committee will expire on March 3, 2026, unless the

Commissioner formally determines that renewal is in the public interest.

**FOR FURTHER INFORMATION CONTACT:**

Jessica Seo, Center for Drug Evaluation Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 301-796-9001, [GIDAC@fda.hhs.gov](mailto:GIDAC@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to 41 CFR 102-3.65 and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the Gastrointestinal Drugs Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal diseases and makes appropriate recommendations to the Commissioner.

Pursuant to its charter, the Committee shall consist of a core of 11 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of gastroenterology, endocrinology, surgery, clinical pharmacology, physiology, pathology, liver function, motility, esophagitis, and statistics. Members will be invited to serve for overlapping terms of up to 4 years. Non-Federal members of this committee will serve either as Special Government Employees or non-voting representatives. Federal members will serve as Regular Government Employees or Ex-Officios. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting representative member who is identified with industry interests. There may also be an alternate industry representative.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees (normally not to exceed 10 members) to serve

temporarily as voting members and to designate consultants to serve temporarily as voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members), or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking. Because of the size of the Committee and the variety in the types of issues that it will consider, FDA may, in connection with a particular committee meeting, specify a quorum that is less than a majority of the current voting members. The Agency's regulations (21 CFR 14.22(d)) authorize a committee charter to specify quorum requirements.

If functioning as a medical device panel, an additional non-voting representative member of consumer interests and an additional non-voting representative member of industry interests will be included in addition to the voting members.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/human-drug-advisory-committees/gastrointestinal-drugs-advisory-committee> or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at <https://www.fda.gov/AdvisoryCommittees/default.htm>.

Dated: March 4, 2024.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2024-04845 Filed 3-6-24; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2022-D-1503]

**Q2(R2) Validation of Analytical Procedures and Q14 Analytical Procedure Development; International Council for Harmonisation; 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 final guidances for industry entitled “Q2(R2) Validation of Analytical Procedures” and “Q14 Analytical Procedure Development.” The guidances were prepared under the auspices of the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH). The guidance entitled “Q2(R2) Validation of Analytical Procedures” provides a general framework for the principles of analytical procedure validation, including validation principles that cover the analytical use of spectroscopic data. The guidance entitled “Q14 Analytical Procedure Development” provides harmonized guidance on scientific approaches for analytical procedure development and describes principles to facilitate more efficient, science-based, and risk-based postapproval change management. The guidances are intended to facilitate regulatory evaluations and potential flexibility in postapproval change management of analytical procedures when scientifically justified. The guidances replace the draft guidances “Q2(R2) Validation of Analytical Procedures” and “Q14 Analytical Procedure Development” issued on August 29, 2022.

**DATES:** The announcement of the guidances is published in the **Federal Register** on March 7, 2024.

**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-2022-D-1503 for "Q2(R2) Validation of Analytical Procedures and Q14 Analytical Procedure Development." 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 this 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, or 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 that 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:

*Regarding the guidance:* David Keire, Center for Drug Evaluation and Research, Food and Drug Administration, 645 S Newstead Ave., Rm. 2008, St. Louis, MO 63110-1116, [David.Keire@fda.hhs.gov](mailto:David.Keire@fda.hhs.gov); or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

*Regarding the ICH:* Jill Adleberg, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire

Ave., Bldg. 51, Rm. 6364, Silver Spring, MD 20993-0002, 301-796-5259, [Jill.Adleberg@fda.hhs.gov](mailto:Jill.Adleberg@fda.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

FDA is announcing the availability of the guidances for industry entitled "Q2(R2) Validation of Analytical Procedures" and "Q14 Analytical Procedure Development." The guidances were prepared under the auspices of ICH. ICH seeks to achieve greater regulatory harmonization worldwide to ensure that safe, effective, high-quality medicines are developed, registered, and maintained in the most resource-efficient manner.

By harmonizing the regulatory requirements in regions around the world, ICH guidelines enhance global drug development, improve manufacturing standards, and increase the availability of medications. For example, ICH guidelines have substantially reduced duplicative clinical studies, prevented unnecessary animal studies, standardized the reporting of important safety information, and standardized marketing application submissions.

The six Founding Members of the ICH are FDA; the Pharmaceutical Research and Manufacturers of America; the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; and the Japanese Pharmaceutical Manufacturers Association. The Standing Members of the ICH Association include Health Canada and Swissmedic. ICH membership continues to expand to include other regulatory authorities and industry associations from around the world (refer to <https://www.ich.org/>).

ICH works by engaging global regulatory and industry experts in a detailed, science-based, and consensus-driven process that results in the development of ICH guidelines. The regulators around the world are committed to consistently adopting these consensus-based guidelines, realizing the benefits for patients and for industry.

As a Founding Regulatory Member of ICH, FDA plays a major role in the development of each of the ICH guidelines, which FDA then adopts and issues as guidance for industry. FDA's guidance documents do not establish legally enforceable responsibilities. Instead, they describe the Agency's current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited.

In the **Federal Register** of August 29, 2022 (87 FR 52784), FDA published a notice announcing the availability of the draft guidances entitled “Q2(R2) Validation of Analytical Procedures” and “Q14 Analytical Procedure Development.” The notice gave interested persons an opportunity to submit comments by September 28, 2022.

After consideration of the comments received and revisions to the guideline, final drafts of the guidelines were submitted to the ICH Assembly and endorsed by the regulatory agencies in November 2023.

These guidances finalize the draft guidances issued on August 29, 2022. The final “Q2(R2) Validation of Analytical Procedures” guidance resolves issues on range, response, reference material, biologics, replicates, and dissolution. In addition, guidance on data requirements for accuracy, precision, and the combined approach (e.g., confidence intervals) were refined. The final “Q14 Analytical Procedure Development” guidance includes further clarification of concepts like minimum versus enhanced approach, the definition and description of the analytical targeting profile, and established conditions.

These guidances are being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on “Q2(R2) Validation of Analytical Procedures” and “Q14 Analytical Procedure Development.” These guidances 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.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information for investigational new drug applications have been approved under OMB control number 0910–0014; the collections of information for review of new drug applications have been approved under OMB control number 0910–0001; and the collections of information for review of biologics license applications have been approved under OMB control number 0910–0338.

## III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.regulations.gov>, <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Dated: March 4, 2024.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2024–04834 Filed 3–6–24; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: Advanced Nursing Education Program Specific Form OMB No. 0915–0375—Revision

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA’s ICR only after the 30-day comment period for this notice has closed.

**DATES:** Comments on this ICR should be received no later than April 8, 2024.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](https://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information

Collection Clearance Officer, at [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call (301) 443–3983.

#### SUPPLEMENTARY INFORMATION:

*Information Collection Request Title:* Advanced Nursing Education (ANE) Program Specific Form OMB No. 0915–0375—Revision.

*Abstract:* HRSA provides advanced nursing education grants to educational institutions to increase the supply, distribution, quality of, and access to advanced education nurses through the ANE Programs. The ANE Programs are authorized by section 811 of the Public Health Service Act (42 U.S.C. 296j), as amended. This clearance request is for continued approval of the information collection OMB No. 0915–0375 with revisions. This revision request seeks to add the ANE-Nurse Practitioner Residency and Fellowship Program and the Maternity Care Nursing Workforce Expansion Program to the ANE Program Specific Form, and to remove programs that have closed, which include the ANE-Nurse Practitioner Residency Program and the ANE-Nurse Practitioner Residency Integration Program. The activities previously supported under the ANE Nurse Practitioner Residency Program and the ANE-Nurse Practitioner Residency Integration Program are now supported under the ANE-Nurse Practitioner Residency and Fellowship Program.

A 60-day notice published in the **Federal Register** on December 28, 2023, 88 FR 89709–10. There were no public comments.

*Need and Proposed Use of the Information:* Section 811 of the Public Health Service Act provides the Secretary of Health and Human Services with the authority to award grants to and enter into contracts with eligible entities to meet the costs of: (1) projects that support the enhancement of advanced nursing education and practice; and (2) traineeships for individuals in advanced nursing education programs. Under this section, HRSA makes awards to entities who train and support nurses characterized as “advanced education nurses.” In awarding such grants, funding preference is given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in state or local health departments; special consideration is given to an eligible entity that agrees to extend the award to train advanced education nurses who will practice in designated Health Professional Shortage Areas.

The ANE Program Specific Form allows HRSA to effectively target



funding and measure the impact of the ANE Programs in meeting the legislative intent and program goals of supporting the enhancement of advanced nursing education and creating opportunities for individuals in advanced nursing education programs to increase the number of advanced practice nurses, especially in rural and underserved areas. Additionally, collecting this data assists HRSA in carrying out the most impactful program and ensuring resources are used responsibly. The proposed updates to this information

collection are to accurately list the current ANE Programs.

**Likely Respondents:** Likely respondents will be current ANE Programs awardees and new applicants to ANE Programs.

**Burden Statement:** Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose

of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

**Total Estimated Annualized Burden Hours:**

| Form name (includes the ANE program specific tables and attachments) | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|--|-----------------------|------------------------------------|-----------------|--|--------------------|
| Advanced Nursing Education Workforce .....                           | 156                   | 1                                  | 156             | 7                                      | 1,092              |
| Nurse Anesthetist Traineeship .....                                  | 64                    | 1                                  | 64              | 7                                      | 448                |
| ANE—Sexual Assault Nurse Examiners .....                             | 54                    | 1                                  | 54              | 7                                      | 378                |
| ANE—Nurse Practitioner Residency and Fellowship .....                | 64                    | 1                                  | 64              | 7                                      | 448                |
| Maternity Care Nursing Workforce Expansion .....                     | 10                    | 1                                  | 10              | 7                                      | 70                 |
| <b>Total</b> .....   | <b>348</b>            | .....                              | <b>348</b>      | .....                                  | <b>2,436</b>       |

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2024–04848 Filed 3–6–24; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection

**Activities: Submission to OMB for Review and Approval; Public Comment Request; National Health Service Corps Scholar/Students to Service Travel Worksheet, OMB No. 0915–0278—Revision**

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

**DATES:** Comments on this ICR should be received no later than April 8, 2024.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email Joella Roland, the HRSA Information Collection Clearance Officer, at [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call (301) 443–3983.

#### SUPPLEMENTARY INFORMATION:

**Information Collection Request Title:** National Health Service Corps Scholar/Students to Service Travel Worksheet, OMB No. 0915–0278—Revision.

**Abstract:** Clinicians participating in the HRSA National Health Service Corps (NHSC) Scholarship Program and the Students to Service (S2S) Loan Repayment Program use the online Travel Request Worksheet to request and receive travel funds from the Federal Government to visit eligible NHSC sites to which they may be assigned in accordance with the Public Health Service Act, section 331(c)(1).

The travel approval process is initiated when an NHSC scholar or S2S participant notifies the NHSC of an

impending interview at one or more NHSC-approved practice sites. The Travel Request Worksheet is also used to initiate the relocation process after an NHSC scholar or S2S participant has successfully been matched to an approved practice site in accordance with the Public Health Service Act, section 331(c)(3). Upon receipt of a completed Travel Request Worksheet, the NHSC will review and approve or disapprove the request and promptly notify the NHSC scholar or S2S participant and the NHSC logistics contractor regarding travel arrangements and authorization of the funding for the site visit or relocation.

A 60-day notice published in the **Federal Register** on December 29, 2023, 88 FR 90190–91. There were no public comments.

**Need and Proposed Use of the Information:** This information will facilitate NHSC scholar and S2S participants' receipt of Federal travel funds that are used to visit high-need NHSC-approved practice sites. The Travel Request Worksheet is also used to initiate the relocation process after a NHSC scholar or S2S participant has successfully been matched to an approved practice site.

**Likely Respondents:** Clinicians participating in the NHSC Scholarship Program and the S2S Loan Repayment Program.

**Burden Statement:** Burden in this context means the time expended by persons to generate, maintain, retain,

disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and

maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the

information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

| Form name                      | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|--------------------------------|-----------------------|------------------------------------|-----------------|--|--------------------|
| Travel Request Worksheet ..... | 800                   | 2                                  | 1,600           | 0.0667                                 | 106.72             |
| Total .....                    | 800                   | .....                              | 1,600           | .....                                  | 106.72             |

Maria G. Button,  
Director, Executive Secretariat.  
[FR Doc. 2024-04842 Filed 3-6-24; 8:45 am]  
BILLING CODE 4165-15-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
[Docket No. FR-7086-N-06]

60-Day Notice of Proposed Information Collection: Mortgagee’s Application for Partial Settlement (Multifamily Mortgage); OMB Control No.: 2502-0427

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.  
ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: May 6, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 60-day Review—Open for Public Comments” or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department

of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410-5000; telephone 202-402-3577 (this is not a toll-free number) or email: [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone (202) 402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Mortgagee’s Application for Partial Settlement (Multifamily Mortgage).  
OMB Approval Number: 2502-0427.  
OMB Expiration Date: August 31, 2024.  
Type of Request: Extension of a currently approved collection.  
Form Number: HUD-2537, HUD-2747, HUD-1044-D.

Description of the need for the information and proposed use: When a Federal Housing Administration insured Multifamily mortgage goes into default, the Mortgagee may file a claim with the Secretary to receive the insurance benefits. The Mortgagee is required by HUD to furnish form HUD-2537,

Mortgagee’s Application for Partial Settlement (Multifamily Mortgage), prior to assignment. Once the email or telefax is received with form HUD-2537, HUD pays 70 or 90% of the Unpaid Principal Balance (UPB) plus interest within 24 to 48 hours after assignment or conveyance. Interest will continue to accrue on the claim until the partial settlement is paid. Interest paid on each claim is based on the default date, the escrows reported on form HUD-2537 and the UPB reported.

Respondents: Business or other for-profit; State, Local, or Tribal Government.  
Estimated Number of Respondents: 110.  
Estimated Number of Responses: 110.  
Frequency of Response: 1.  
Average Hours per Response: 1.75.  
Estimated Burden: 193 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (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;
  - (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
  - (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.
- HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Jeffrey D. Little,**

*General Deputy Assistant Secretary for Housing.*

[FR Doc. 2024-04787 Filed 3-6-24; 8:45 am]

**BILLING CODE 4210-67-P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

[Docket No. FR-7080-N-12]

**30-Day Notice of Proposed Information Collection: Rental Assistance Demonstration (RAD) Application Forms; OMB Control No.: 2577-0278**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing (PIH), HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* April 8, 2024.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. 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](http://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. Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Clearance Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) or telephone (202) 402-3400. This is not a toll-free

number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 22, 2023 at 88 FR 65401.

**A. Overview of Information Collection**

*Title of Information Collection:* Rental Assistance Demonstration (RAD) Application Forms.

*OMB Approval Number:* 2577-0278.

*Type of Request:* Reinstatement to discontinue collection.

*Form Number:* 5260 RAD Application; HUD-5261 RAD Mod Rehab Application.

*Description of the need for the information and proposed use:* The Rental Assistance Demonstration allows Public Housing and Moderate Rehabilitation (Mod Rehab) properties to convert to long-term Section 8 rental assistance contracts; and Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Mod Rehab properties, upon contract expiration or termination, to convert tenant protection vouchers (TPVs) to project-based vouchers (PBVs). Participation in the initiative will be voluntary. Public Housing agencies and Mod Rehab owners interested in participating in the Demonstration are required to submit applications to HUD. HUD intends through the conversion process, to assure the physical and financial sustainability of properties and enable owners to leverage private financing to address immediate and long-term capital needs, improve operations, and implement energy efficiency improvements. The RAD applications are Excel based and will be pre-populated with data the Department collects and maintains for each housing agencies. Information collected by the applications will allow the Department to determine which applicants meet the eligibility requirements and have the capacity to successfully meet RAD's mission delineated in PIH Notice PIH-

2012-32, REV-2: Rental Assistance Demonstration.

*Respondents (i.e., affected public):* State, Local or Tribal Government.

*Estimated Number of Respondents:* The estimated number of respondents is 8,855 annually with one response per respondent.

*Estimated Number of Responses:* 8,855.

*Frequency of Response:* Once.

*Average Hours per Response:* 2 hours.

*Total Estimated Burdens:* 17,710.

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(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.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

**Colette Pollard,**

*Department Reports Management Officer,  
Office of Policy Development and Research,  
Chief Data Officer.*

[FR Doc. 2024-04885 Filed 3-6-24; 8:45 am]

**BILLING CODE 4210-67-P**

**INTERNATIONAL TRADE COMMISSION**

[USITC SE-24-011]

**Sunshine Act Meetings**

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** March 12, 2024 at 11 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. *Agendas for future meetings:* none.
2. Minutes.
3. Ratification List.
4. Commission vote on Inv. Nos. 701–TA–579–580 and 731–TA–1369–1372 (Review) (Fine Denier Polyester Staple Fiber (PSF) from China, India, South Korea, and Taiwan). The Commission currently is scheduled to complete and file its determination and views of the Commission on April 1, 2024.
5. *Outstanding action jackets:* none.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Bellamy, Supervisory Hearings and Information Officer, 202–205–2000.

The Commission is holding the meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b). In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:  
Issued: March 5, 2024.

**Sharon Bellamy,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2024–05012 Filed 3–5–24; 4:15 pm]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1381]

### Certain Disposable Vaporizer Devices and Components and Packaging Thereof; Notice of a Commission Determination Not To Review Initial Determination Amending the Complaint and Notice of Investigation To Correct Respondent Name

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (Order No. 10) issued by the chief administrative law judge (“CALJ”) granting a motion to amend the complaint and notice of investigation (“NOI”) to change the name of a respondent.

**FOR FURTHER INFORMATION CONTACT:** Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436,

telephone (202) 205–2043. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** On December 15, 2023, the Commission instituted this investigation based on a complaint filed by of complainants R.J. Reynolds Tobacco Company and R.J. Reynolds Vapor Company (collectively “R.J. Reynolds”). 88 FR 88111–12 (Dec. 15, 2023). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, or sale within the United States after importation of certain disposable vaporizer devices and components and packaging thereof by reason false advertising, false designation of origin, and unfair competition, the threat or effect of which is to destroy or substantially injure an industry in the United States. The Commission’s NOI named the following twenty-five (25) respondents: Affiliated Imports, LLC, of Pflugerville, TX; American Vape Company, LLC a/k/a American Vapor Company, LLC, of Pflugerville, TX; Breeze Smoke, LLC, of West Bloomfield, MI; Dongguan (Shenzhen) Shikai Technology Co., Ltd., of Guangdong, China; EVO Brands, LLC, of Wilmington, DE; Flawless Vape Shop Inc. of Anaheim, CA; Flawless Vape Wholesale & Distribution Inc of Anaheim, CA; Guangdong Qisitech Co., Ltd., of Guangdong Province, China; iMiracle (Shenzhen) Technology Co. Ltd. of Shenzhen, China; Magellan Technology Inc. of Buffalo, NY; Pastel Cartel, LLC, of Pflugerville, TX; Price Point Distributors Inc. d/b/a Prince Point NY of Farmingdale, NY; PVG2, LLC, of Wilmington, DE; Shenzhen Daosen Vaping Technology Co., Ltd., of Shenzhen, China; Shenzhen Fumot Technology Co., Ltd., of Shenzhen, China; Shenzhen Funyin Electronic Co., Ltd., of Guangdong, China; Shenzhen Han Technology Co., Ltd., of Shenzhen, Guangdong, China; Shenzhen Innokin Technology Co., Ltd., of Shenzhen, China; Shenzhen IVPS Technology Co., Ltd., of Shenzhen, Guangdong, China; Shenzhen Noriyang Technology Co.,

Ltd., of Shenzhen, Guangdong Province, China; Shenzhen Weiboli Technology Co. Ltd. of Shenzhen, China; SV3 LLC d/b/a Mi-One Brands of Phoenix, AZ; Thesy, LLC d/b/a Element Vape of El Monte, CA; Vapeonly Technology Co. Ltd. of Shenzhen, China; and VICA Trading Inc. d/b/a Vapesourcing of Tustin, CA. *Id.* The Office of Unfair Import Investigations was also named as a party in this investigation. *Id.*

On February 2, 2024, R.J. Reynolds filed an unopposed motion for leave to amend the complaint and NOI to change the name of respondent “Shenzhen Funyin Electronic Co., Ltd.” to “Shenzhen Funyin Electronic Technology Co., Ltd.” (“Funyin”) because the word “Technology” was inadvertently omitted from the originally filed complaint. *See* Order No. 10 at 1. R.J. Reynolds noted that the “proposed amendment does not add or otherwise modify any allegations against any Respondent” and that Funyin does not oppose the motion. *Id.* at 2. No party opposed the motion. *Id.*

On February 5, 2024, the CALJ issued the subject ID (Order No. 10) pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)), granting R.J. Reynolds’ motion to amend the complaint and NOI as requested. The ID finds that R.J. Reynolds has established good cause for the proposed amendment, and that the amendment “will not prejudice the rights of any parties to the investigation and reflects the true identity of the respondent at issue.” ID at 1.

No party filed a petition for review of the subject ID.

The Commission has determined not to review the subject ID (Order No. 10). Pursuant to Commission Rule 210.14, the Notice of Investigation is amended to change the name of respondent “Shenzhen Funyin Electronic Co., Ltd.” to “Shenzhen Funyin Electronic Technology Co., Ltd.”

The Commission vote for this determination took place on March 4, 2024.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 4, 2024.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2024–04879 Filed 3–6–24; 8:45 am]

**BILLING CODE 7020–02–P**

**DEPARTMENT OF LABOR****Agency Information Collection Activities; Submission for OMB Review; Comment Request; Gear Certification Standard**

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-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 April 8, 2024.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://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) 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; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) 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:** Nicole Bouchet by telephone at 202–693–0213, or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**SUPPLEMENTARY INFORMATION:** Form OSHA–70 is used by applicants seeking accreditation from the OSHA to be able to test or examine certain equipment and material handling devices as required under the OSHA maritime regulations, 29 CFR part 1917 (Marine Terminals) and 29 CFR part 1918 (Longshoring). OSHA needs this information to accredit companies to inspect and provide certification for cranes, derricks, and accessory gear used in the longshoring, marine terminal and shipyard industries.

Certain types of vessel cargo gear and shore-based material handling devices used in maritime operations are required to have accredited companies conduct examinations. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 24, 2023 (88 FR 73046).

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–OSHA.

*Title of Collection:* Gear Certification Standard.

*OMB Control Number:* 1218–0003.

*Affected Public:* Private Sector—Businesses or other for-profits.

*Total Estimated Number of Respondents:* 35.

*Total Estimated Number of Responses:* 5,035.

*Total Estimated Annual Time Burden:* 109 hours.

*Total Estimated Annual Other Costs Burden:* \$2,612,500.

(Authority: 44 U.S.C. 3507(a)(1)(D))

**Nicole Bouchet,**

*Certifying Official.*

[FR Doc. 2024–04814 Filed 3–6–24; 8:45 am]

**BILLING CODE 4510–26–P**

**NATIONAL SCIENCE FOUNDATION****Sunshine Act Meetings**

The National Science Board’s Committee on Strategy’s Subcommittee on Technology, Innovation and Partnerships hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

**TIME AND DATE:** Monday, March 11, 2024, from 1–2 p.m. EDT.

**PLACE:** This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** The agenda is: Subcommittee Chair’s opening remarks regarding the agenda; Discussion of Draft TIP Roadmap; TIP Topics and Touchpoints for Future NSB Engagement.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: Chris Blair, [cblair@nsf.gov](mailto:cblair@nsf.gov), 703–292–7000. Meeting information and updates may be found at [www.nsf.gov/nsb](http://www.nsf.gov/nsb).

**Ann E. Bushmiller,**

*Senior Legal Counsel to the National Science Board.*

[FR Doc. 2024–04947 Filed 3–5–24; 11:15 am]

**BILLING CODE 7555–01–P**

**NATIONAL SCIENCE FOUNDATION****Advisory Committee for Engineering; Notice of Meeting**

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

*Name and Committee Code:* Advisory Committee for Engineering (#1170)—Hybrid Meeting.

*Date and Time:* April 4, 2024; 10:00 a.m.–6:00 p.m. (Eastern); April 5, 2024; 8:30 a.m.–1:00 p.m. (Eastern).

*Place:* NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314/Hybrid.

*Type of Meeting:* Open.

*Contact Persons:* Don Millard, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8300.

Additional meeting information, an updated agenda, and registration information will be posted at <https://www.nsf.gov/eng/advisory.jsp>.

*Purpose of Meeting:* To provide advice, recommendations and counsel on major goals and policies pertaining to engineering programs and activities.

**Agenda**

*Thursday, April 4, 2024*

- Welcome
- Directorate for Engineering Report
- NSF Budget Update
- EPSCoR Engagement and Collaboration
- Expanding NSF INTERN
- Translation and Impacts of Future Manufacturing Research.
- Reports from Advisory Committee Liaisons
- Strategic Recommendations for ENG

- Preparation for Discussion with the Director's Office

Friday, April 5, 2024

- REU and RET sites and industry collaboration
- Preparation for Discussion with the Director's Office
- Perspective from the Director's Office
- Strategic Recommendations for ENG
- Closing Remarks

Dated: March 1, 2024.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2024-04790 Filed 3-6-24; 8:45 am]

**BILLING CODE 7555-01-P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings

The National Science Board's ad hoc Committee on Elections hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

**TIME AND DATE:** March 14, 2024, at 11 a.m. EDT.

**PLACE:** This meeting will be held by teleconference through the National Science Foundation.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Chair's Opening Remarks about the agenda; Discussion of process to build a slate of Nominees for NSB Chair and Vice Chair positions for the 2022-2024 term; Assign tasks and determine next steps.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: Andrea Rambow, [arambow@nsf.gov](mailto:arambow@nsf.gov), 703-292-7000. You may find meeting updates at <https://www.nsf.gov/nsb/meetings/index.jsp#up>.

**Ann E. Bushmiller,**

*Senior Counsel to the National Science Board.*

[FR Doc. 2024-04946 Filed 3-5-24; 11:15 am]

**BILLING CODE 7555-01-P**

## NATIONAL SCIENCE FOUNDATION

### Committee Management Renewals

The NSF management officials having responsibility for three advisory

committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

#### Committees:

Advisory Committee for Environmental Research and Education, #9487  
Proposal Review Panel for Emerging Frontiers and Multidisciplinary Activities, #34558  
Business and Operations Advisory Committee, #9556

Effective date for renewal is March 1, 2024. For more information, please contact Crystal Robinson, NSF, at (703) 292-8687.

Dated: March 1, 2024.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2024-04783 Filed 3-6-24; 8:45 am]

**BILLING CODE 7555-01-P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings

The National Science Board hereby gives notice of the scheduling of a teleconference of the National Science Board/National Science Foundation Commission on Merit Review (MRX) for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

**TIME AND DATE:** Monday, March 11, 2024, from 12-2 p.m. EDT.

**PLACE:** This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** The agenda is: Commission Chair's remarks about the agenda; Discussion of Preliminary Recommendations and Suggestions; Commission Chair's closing remarks.

**CONTACT PERSON FOR MORE INFORMATION:** Point of contact for this meeting is: Chris Blair, [cblair@nsf.gov](mailto:cblair@nsf.gov), 703-292-

7000. Meeting information and updates may be found at [www.nsf.gov/nsb](https://www.nsf.gov/nsb).

**Ann E. Bushmiller,**

*Senior Counsel to the National Science Board Office.*

[FR Doc. 2024-04945 Filed 3-5-24; 11:15 am]

**BILLING CODE 7555-01-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

**AGENCY:** U.S. Nuclear Regulatory Commission

**ACTION:** Notice of meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on April 8-9, 2024. A sample of agenda items to be discussed include: a review of recent medical events; a review of prescription error reduction methods; and a review of several NRC draft licensing guidance documents for the Eye90 microsphere device, the Akesis Galaxy RTi unit, and the LV Liberty Vision Y-90 episcleral brachytherapy source. The agenda is subject to change. The current agenda and any updates will be available on the ACMUI's Meetings and Related Documents web page at <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2024.html> or by emailing Ms. L. Armstead at the contact information below.

**Purpose:** Discuss issues related to 10 CFR part 35 Medical Use of Byproduct Material.

**Date and Time for Open Sessions:** April 8, 2024, from 8:30 a.m. to 4:30 p.m. and April 9, 2024, from 10 a.m. to 12 p.m. eastern standard time.

**Address for Public Meeting:** U.S. Nuclear Regulatory Commission, One White Flint North Building (Commissioner's Hearing Room, O1-F16/O1-G16), 11555 Rockville Pike, Rockville, Maryland 20852.

| Date              | Webinar information<br>(Microsoft teams)   |
|-------------------|--|
| April 8, 2024 ... | <p><b>Link:</b> <a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjllNmZkODktZTg3My00MDU0LTk4NzMtNjRhNmJlYmRmNGY1%40thread.v2/0?context=%7b%22Tid%22%3a%22e8d01475-c3b5-436a-a065-5def4c64f52e%22%2c%22Oid%22%3a%22304f46bf-32c2-4e0f-912c-878db895e74a%22%7d">https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjllNmZkODktZTg3My00MDU0LTk4NzMtNjRhNmJlYmRmNGY1%40thread.v2/0?context=%7b%22Tid%22%3a%22e8d01475-c3b5-436a-a065-5def4c64f52e%22%2c%22Oid%22%3a%22304f46bf-32c2-4e0f-912c-878db895e74a%22%7d</a></p> <p><b>Meeting ID:</b> 257 264 946 630.</p> <p><b>Passcode:</b> n3TZmR.</p> |

| Date | Webinar information<br>(Microsoft teams)   |
|------|--|
|      | Call in number (audio only): +301-576-2978, Silver Spring.<br>Phone Conference ID: 954 210 683#. |

**Public Participation:** The meeting will be held in-person and as a webinar using Microsoft Teams. Any member of the public who wishes to participate in the meeting in person, via Microsoft Teams, or via phone should contact Ms. L. Armstead using the information below. Members of the public should also monitor the NRC's Public Meeting Schedule at <https://www.nrc.gov/pmns/mtg> for any meeting updates.

**Contact Information:** Ms. L. Armstead, email: [lxa5@nrc.gov](mailto:lxa5@nrc.gov), telephone: 301-415-1650.

### Conduct of the Meeting

The ACMUI Chair, Hossein Jadvar, M.D., Ph.D., will preside over the meeting. Dr. Jadvar will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. L. Armstead using the contact information listed above. All submittals must be received by the close of business on April 2, 2024, and must only pertain to the topics on the agenda.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the ACMUI Chair.

3. The draft transcript and meeting summary will be available on ACMUI's website <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2024.html> on or about May 24, 2024.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. L. Armstead of their planned participation.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily section 161a); the Federal Advisory Committee Act (5 U.S.C. app); and the Commission's regulations in title 10 of the *Code of Federal Regulations*, part 7.

Dated at Rockville, Maryland this 4th day of March, 2024.

For the U.S. Nuclear Regulatory Commission.

**Russell E. Chazell,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2024-04836 Filed 3-6-24; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461; NRC-2024-0046]

### Constellation Energy Generation, LLC; Clinton Power Station, Unit 1; License Renewal Application

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice; receipt.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received an application for the renewal of Facility Operating License No. NPF-62, which authorizes Constellation Energy Generation, LLC (CEG, the applicant) to operate Clinton Power Station, Unit 1 (CPS). The renewed license would authorize the applicant to operate CPS for an additional 20 years beyond the period specified in the current license. The current operating license for CPS expires April 17, 2027.

**DATES:** The license renewal application referenced in this document is available on March 7, 2024.

**ADDRESSES:** Please refer to Docket ID NRC-2024-0046 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0046. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION**

**CONTACT** section of this document.

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

- **Public Library:** A copy of the license renewal application for CPS can be accessed at the following public library: Vespasian Warner Public Library, 310 North Quincy Street, Clinton, IL 61727.

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

### FOR FURTHER INFORMATION CONTACT:

Chris Tyree, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3754; email: [Christopher.Tyree@nrc.gov](mailto:Christopher.Tyree@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The NRC has received an application from CEG, dated February 14, 2024 (ADAMS Accession No. ML24045A024) filed pursuant to section 103 of the Atomic Energy Act of 1954, as amended, and part 54 of title 10 of the *Code of Federal Regulations*, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants," to renew the operating license for Clinton Power Station, Unit 1 (CPS). Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating license. The current operating license for CPS expires April 17, 2027. Clinton Power Station, Unit 1 is a boiling water reactor located near Clinton, Illinois. The acceptability of the tendered application for docketing, and other matters, including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

A copy of the license renewal application for CPS is also available to local residents near the site at the following public library: Vespasian Warner Public Library, 310 North Quincy Street, Clinton, IL 61727.

Dated: March 1, 2024.

For the Nuclear Regulatory Commission.

**Lauren K. Gibson,**

*Chief, License Renewal Project Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.*

[FR Doc. 2024-04811 Filed 3-6-24; 8:45 am]

BILLING CODE 7590-01-P



**POSTAL REGULATORY COMMISSION**

[Docket No. CP2023–103]

**New Postal Products**

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* March 11, 2024.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

**I. Introduction**

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance

with the requirements of 39 CFR 3011.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. *Docket No(s):* CP2023–103; *Filing Title:* USPS Notice of Amendment to Priority Mail and Parcel Select Contract 8, Filed Under Seal; *Filing Acceptance Date:* March 1, 2024; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Arif Hafiz; *Comments Due:* March 11, 2024.

This Notice will be published in the **Federal Register**.

Eric A. Barker,  
*Secretary.*

[FR Doc. 2024–04874 Filed 3–6–24; 8:45 am]

**BILLING CODE 7710–FW–P**

**SECURITIES AND EXCHANGE COMMISSION****Sunshine Act Meetings**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 89 FR 15622, March 7, 2024.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** Thursday, March 7, 2024 at 2 p.m.

**CHANGES IN THE MEETING:** The Closed Meeting scheduled for Thursday, March 7, 2024 at 2 p.m., has been cancelled.

**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: March 5, 2024.

Vanessa A. Countryman,  
*Secretary.*

[FR Doc. 2024–05044 Filed 3–5–24; 4:15 pm]

**BILLING CODE 8011–01–P**

<sup>1</sup> See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–99652; File No. SR–ICC–2024–002]

**Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ICC's Fee Schedules**

March 1, 2024

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on February 26, 2024, ICE Clear Credit LLC (“ICE Clear Credit” or “ICC”) filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act <sup>3</sup> and Rule 19b–4(f)(2) thereunder,<sup>4</sup> such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change**

The principal purpose of the proposed rule change is to modify ICC's fee schedules to implement reduced fees for credit default index swaptions (“Index Options”) until further notice. These revisions do not require any changes to the ICC Clearing Rules.

**II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) *Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) Purpose

The proposed changes are intended to modify ICE Clear Credit's fee schedules

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b–4(f)(2).

to implement reduced fees for Index Options<sup>5</sup> until further notice. ICE Clear Credit maintains a Clearing Participant (“CP”) fee schedule<sup>6</sup> and client fee schedule<sup>7</sup> (collectively, the “fee schedules”) that are publicly available on its website, which ICE Clear Credit proposes to update. Clearing fees are due by CPs in accordance with the transaction category (*i.e.*, proprietary CP transactions or transactions on behalf of the CP’s clients) product, amount and currency set out in the fee schedules and subject to any incentive program described in the fee schedules. The proposed changes to the fee schedules are set forth in Exhibit 5A and Exhibit 5B and described in detail as follows. ICE Clear Credit proposes to make such changes effective March 1, 2024, following the completion of the applicable regulatory review process (the “Effective Date”). ICE Clear Credit proposes to implement a 50% fee discount and to maintain the reduced fees for the clearing of Index Options until further action is taken by ICE Clear Credit and the Board to remove the reduced fees and return the Index Option fees to their regular rates, subject to the completion of all necessary regulatory processes. If and when the Board takes such action to return the Index Option fees to their regular rates, ICE Clear Credit will provide the marketplace 30 calendar days advance notice of the fee change on the fee schedules posted on ICE Clear Credit’s website, which will indicate that the Index Option fees will return to their regular rate and the effective date of such change, subject to the completion of all necessary regulatory processes.

The amended CP fee schedule would reduce Index Option fees to \$1.5/million or €1.5/million until further notice. Under the current CP fee schedule, Index Option fees are \$3/million or €3/million, subject to an incentive program that provides a tiered discount schedule based on U.S. Dollar

equivalent, non-discounted Index Option fees billed since the start of the year.<sup>8</sup> ICE Clear Credit also discounted CP Index Option fees for: (i) a portion of 2021, which expired at the end of calendar year 2021;<sup>9</sup> (ii) a portion of 2022, which expired at the end of calendar year 2022;<sup>10</sup> and (iii) a portion of 2023, which expired at the end of calendar year 2023.<sup>11</sup> Under the proposed changes, in addition to updating the fee table, ICE Clear Credit would include a footnote to indicate that the listed fees of \$1.5/million or €1.5/million reflect a discount from ICE Clear Credit’s regular CP Index Options fees of \$3/million or €3/million and that such discounted rates are applicable from the Effective Date until ICE Clear Credit provides 30 calendar days advance notice on the fee schedule posted on ICE Clear Credit’s website indicating that the CP Index Option fees will return to their regular rate and the effective date of such change, subject to the completion of all necessary regulatory processes.

The amended client fee schedule would also reduce Index Option fees to \$2/million or €2/million until further notice.<sup>12</sup> Under the current client fee schedule, Index Option fees are \$4/million or €4/million. ICE Clear Credit also discounted client Index Option fees for: (i) a portion of 2021, which expired at the end of calendar year 2021;<sup>13</sup> a portion of 2022, which expired at the end of calendar year 2022;<sup>14</sup> and a portion of 2023, which expired at the end of calendar year 2023.<sup>15</sup> Under the proposed changes, in addition to updating the fee table, ICE Clear Credit would include a footnote to indicate that the listed fees of \$2/million or €2/million reflect a discount from ICE Clear Credit’s regular client Index Option fees of \$4/million or €4/million and that

such discounted rates are applicable from the Effective Date until ICE Clear Credit provides 30 calendar days advance notice on the fee schedule posted on ICE Clear Credit’s website indicating that the client Index Option fees will return to their regular rate and the effective date of such change, subject to the completion of all necessary regulatory processes.

#### (b) Statutory Basis

ICE Clear Credit believes that the proposed rule change is consistent with the requirements of the Act, including Section 17A of the Act<sup>16</sup> and the regulations thereunder applicable to it. More specifically, the proposed rule change establishes or changes a member due, fee or other charge imposed by ICE Clear Credit under Section 19(b)(3)(A)(ii) of the Act<sup>17</sup> and Rule 19b-4(f)(2)<sup>18</sup> thereunder. ICE Clear Credit believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICE Clear Credit, in particular, to Section 17A(b)(3)(D),<sup>19</sup> which requires that the rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

ICE Clear Credit believes that the proposed discounts in the fee schedules have been set at an appropriate level. In determining the appropriate discount level, ICE Clear Credit considered factors such as volume, revenue, and market participation in the clearing service, including based on different fee levels. ICE Clear Credit also considered costs and expenses in offering clearing of Index Options, taking into account the investments that ICE Clear Credit has made in clearing such products and the level of investment and development needed for this clearing service at this time. In ICE Clear Credit’s view, the fees are reasonable as the discounts correspond with anticipated volumes, costs and expenses, and revenues, and they consider current and past market activity as well as anticipated market activity with respect to clearing Index Options at ICE Clear Credit.<sup>20</sup> Furthermore, the proposed discounts are in line with past Index Option incentive programs that ICE Clear Credit offered, which similarly reduced Index Option fees without any further action required by CPs or the

<sup>8</sup> SEC Release No. 34-90524 (November 27, 2020) (notice), 85 FR 78157 (December 3, 2020) (SR-ICC-2020-013).

<sup>9</sup> SEC Release No. 34-91922 (May 18, 2021) (notice), 86 FR 27938 (May 24, 2021) (SR-ICC-2021-014).

<sup>10</sup> SEC Release No. 34-94330 (February 28, 2022) (notice), (87 FR 12508 (March 4, 2022) (SR-ICC-2022-001).

<sup>11</sup> SEC Release No. 34-96707 (January 19, 2023) (notice), (88 FR 4868 (January 25, 2023) (SR-ICC-2023-001).

<sup>12</sup> The client fee schedule applies to transactions cleared on behalf of CP’s clients, and the specified fees are directly charged to, and collected from, the applicable client’s CP.

<sup>13</sup> SEC Release No. 34-91922 (May 18, 2021) (notice), 86 FR 27938 (May 24, 2021) (SR-ICC-2021-014).

<sup>14</sup> SEC Release No. 34-94330 (February 28, 2022) (notice), (87 FR 12508 (March 4, 2022) (SR-ICC-2022-001).

<sup>15</sup> SEC Release No. 34-96707 (January 19, 2023) (notice), 88 FR 4868 (January 25, 2023) (SR-ICC-2023-001).

<sup>5</sup> Pursuant to an Index Option, one party (the “Swaption Buyer”) has the right (but not the obligation) to cause the other party (the “Swaption Seller”) to enter into an index credit default swap transaction at a pre-determined strike price on a specified expiration date on specified terms. In the case of Index Options that may be cleared by ICE Clear Credit, the underlying index credit default swap is limited to certain CDX and iTraxx index credit default swaps that are accepted for clearing by ICE Clear Credit, and which would be automatically cleared by ICE Clear Credit upon exercise of the Index Option by the Swaption Buyer in accordance with its terms.

<sup>6</sup> CP fee details available at: [https://www.ice.com/publicdocs/clear\\_credit/ICE\\_Clear\\_Credit\\_Fees\\_Clearing\\_Participant.pdf](https://www.ice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees_Clearing_Participant.pdf).

<sup>7</sup> Client fee details available at: [https://www.ice.com/publicdocs/clear\\_credit/ICE\\_Clear\\_Credit\\_Fees.pdf](https://www.ice.com/publicdocs/clear_credit/ICE_Clear_Credit_Fees.pdf). As specified, all fees are charged directly to a client’s CP.

<sup>16</sup> 15 U.S.C. 78q-1.

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>18</sup> 17 CFR 240.19b-4(f)(2).

<sup>19</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>20</sup> Supporting detail and additional data, including clearing statistics for Index Options is included in confidential Exhibit 3.

CPs clients. Under the proposed changes, the same discounted rate (*i.e.*, 50%) from ICE Clear Credit's regular Index Option fees would apply to both CP proprietary transactions and transactions cleared on behalf of the CP's clients. These reduced fees are designed to incentivize the clearing of Index Options by CPs and the CPs clients to grow this clearing service.

Moreover, the proposed fee changes will apply equally to all market participants clearing Index Options. The reduced fees for Index Options will be effective until further notice and shall apply to all CPs. ICE Clear Credit's fee schedules will continue to be transparent and to apply equally to market participants clearing indexes, single names, and Index Options at ICE Clear Credit. Therefore, the proposed rule change provides for the equitable allocation of reasonable dues, fees and other charges among participants, within the meaning of Section 17A(b)(3)(D) of the Act.<sup>21</sup> ICE Clear Credit therefore believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>22</sup> and the regulations thereunder applicable to it and is appropriately filed pursuant to Section 19(b)(3)(A) of the Act<sup>23</sup> and paragraph (f)(2) of Rule 19b-4<sup>24</sup> thereunder.

*(B) Clearing Agency's Statement on Burden on Competition*

ICE Clear Credit does not believe the proposed rule change would have any impact, or impose any burden, on competition. As discussed above, the proposed changes modify ICE Clear Credit's fee schedules to reduce fees for Index Options and will apply uniformly across all market participants. The implementation of such changes does not preclude other market participants from offering such instruments for clearing or offering incentive programs. ICE Clear Credit does not believe these amendments would affect the costs of clearing or the ability of market participants to access clearing. Therefore, ICE Clear Credit does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited or received. ICE Clear Credit will notify the Commission of any written comments received by ICE Clear Credit.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>25</sup> and paragraph (f) of Rule 19b-4<sup>26</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-ICC-2024-002 on the subject line.

*Paper Comments*

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR-ICC-2024-002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at <https://www.ice.com/clear-credit/regulation>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-ICC-2024-002 and should be submitted on or before March 28, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>27</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

[FR Doc. 2024-04794 Filed 3-6-24; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-99658; File No. SR-NYSEAMER-2024-13]

**Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE American Options Fee Schedule**

March 1, 2024.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on February 22, 2024, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>27</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>21</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>22</sup> 15 U.S.C. 78q-1.

<sup>23</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>24</sup> 17 CFR 240.19b-4(f)(2).

<sup>25</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>26</sup> 17 CFR 240.19b-4(f)(2).

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule ("Fee Schedule") to modify the Premium Product Fees. The Exchange proposes to implement the fee change effective February 22, 2024.<sup>4</sup> The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of this filing is to amend the Fee Schedule to (i) update the list of options issues that are subject to the Premium Product Fee (ii) and [sic] the application of the Premium Product Fee to apply to all NYSE American Options Market Makers, including Floor Market Makers. The Exchange proposes to implement the fee change effective February 22, 2024.

In August 2012, the Exchange introduced Premium Product Fees, which are monthly fees charged to NYSE American Options Market Makers transacting in the most active issues trading on the Exchange; provided that this fee is [sic] not assessed on Floor Market Makers who transact at least 75% of their volumes in public outcry.<sup>5</sup>

<sup>4</sup> On January 31, 2024, the Exchange originally filed to amend the Fee Schedule, effective February 1, 2024 (NYSEARCA-2024-08) [sic] and withdrew such filing on February 7, 2024 (NYSEARCA-2024-09) [sic], which latter filing the Exchange withdrew on February 22, 2024.

<sup>5</sup> See Securities Exchange Act Release No. 67634 (August 9, 2012), 77 FR 49038 (August 15, 2012) (SR-NYSEMKT-2012-33) ("Premium Product Filing") (setting forth the original list of Premium Products, which included SPY, AAPL, IWM, QQQ, BAC, EEM, GLD, JPM, XLF, and VXX, transactions in which Products carried a monthly fee of \$1,000

In support of this fee change, the Exchange noted that it does not limit the number of participants who may act as Market Makers, either electronically or in public outcry, and then stated that "[b]y adopting a Premium Product Issues List, which is comprised of many of the most active issues on the Exchange, and a corresponding monthly fee applicable to NYSE Amex Options Market Makers who transact in any of those names, the Exchange intends to encourage meaningful market maker participation in these names."<sup>6</sup> The Exchange updated the initial list in August 2015.<sup>7</sup>

Section III.D. of the Fee Schedule sets forth the (current) list of 10 Premium Products, which are as follows: SPY, AAPL, IWM, QQQ, BABA, BAC, EEM, META, USO, and VXX. Subject to the exception for qualifying Floor Market Makers, NYSE American Options Market Makers that transact in these issues are subject to a monthly fee of \$1,000 per product traded with a monthly cap of \$7,000.<sup>8</sup>

The Exchange proposes to amend the list of Premium Products to reflect the most actively-traded securities on the Exchange today, which have changed since the fees were last updated.<sup>9</sup> Specifically, the Exchange proposes to remove BABA, BAC, EEM, and USO from the list of Premium Products and to replace them with TSLA, AMZN, NVDA, and AMD.<sup>10</sup> The Exchange believes that the proposed change would continue to encourage meaningful Market Maker participation in the option issues that are currently

per product traded with a monthly cap of \$7,000). Per the Premium Product Filing, the Premium Product Fee applies solely to NYSE American Options Market Makers "other than NYSE American Options Floor Market Makers as described in note 1 to Section III.A." of the Fee Schedule (Monthly ATP Fees) (*i.e.*, Floor Market Makers who transact at least 75% of their volumes in public outcry). See *id.*

<sup>6</sup> See Premium Product Filing, 77 FR at 49039-40 (including an example of a "less meaningful" quote (*i.e.*, one that has an extremely low probability of ever being executed against) that the Exchange nonetheless would be required to process).

<sup>7</sup> See Securities Exchange Act Release No. 75614 (August 5, 2015), 80 FR 48129 (August 11, 2015) (SR-NYSEMKT-2015-62) (revising the list of Premium Products to remove GLD, JPM, and XLF and to add BABA, META, and USO).

<sup>8</sup> See Fee Schedule, Section III.D. (NYSE American Options Market Maker Monthly Premium Product Fee). The Exchange is not proposing to alter the amount of the monthly Premium Product Fee or the associated monthly fee cap.

<sup>9</sup> The Exchange represented in the Premium Product Filing that "any change to the list of Premium Products would be done through a fee filing." See Premium Product Filing, 77 FR at 49038.

<sup>10</sup> See proposed Fee Schedule, Section III.D. (NYSE American Options Market Maker Monthly Premium Product Fee)

the most actively-traded on the Exchange.

Next, the Exchange proposes to amend the Premium Product Fee to discontinue the exemption afforded to Floor Market Makers who transact at least 75% of their volumes in public outcry (the "FMM carve out"). In the Premium Products Filing, at the same time the Exchange adopted the FMM carve out it also introduced discounted ATP Fees for Floor Market Makers that transacted at least 75% of their monthly volume in open outcry from the Trading Floor (the "FMM ATP Fees").<sup>11</sup> The rationale for the FMM ATP Fees was that "the Exchange believes that open or public outcry markets serve an important role in the price discovery process that benefits all participants on the Exchange and in the marketplace."<sup>12</sup> Consistent with this rationale, the Exchange stated that the FMM carve out was "in keeping with the Exchange's stated goals of continuing to foster price discovery through public outcry while at the same time reducing the instances of 'less meaningful' electronic quotes in the more liquid names that comprise the Premium Product Issues List."<sup>13</sup>

The Exchange no longer believes that the FMM carve out is necessary and therefore proposes to remove it from the Fee Schedule.<sup>14</sup> The landscape for options trading generally, and open outcry options trading specifically, has changed in the last decade since the FMM carve out was adopted. The volume of options traded on the Exchange (including in open outcry) has increased significantly. As was the case in 2012, the Exchange still does not limit the number of participants who may act as Market Makers, either electronically or in public outcry. This fact taken together with the increase in options trading (including in open outcry) renders the favorable treatment afforded by the FMM carve out no longer necessary to encourage Floor Market Makers to participate in open outcry trading. The Exchange does not believe that the discontinuation would function as a disincentive to Floor Market Makers to transact open outcry.

<sup>11</sup> See generally Premium Product Filing.

<sup>12</sup> See *id.*, 77 FR at 49039.

<sup>13</sup> See *id.*, 77 FR at 49040.

<sup>14</sup> See proposed Fee Schedule, Section III.D. (NYSE American Options Market Maker Monthly Premium Product Fee) (removing the proviso that the Premium Product Fee applied to NYSE American Options Market Makers "other than a Market Maker that qualifies as an NYSE American Options Floor Market Maker as described in note 1 to Section III.A.," which Section III.A. sets forth the Monthly ATP Fees and offers the discounted ATP rates to Floor Market Makers who transact at least 75% of their volumes in public outcry).

Specifically, qualifying Floor Market Makers would still be entitled to reduced ATP fees which carry the same minimum monthly open outcry trading requirement. The Exchange believes that the pricing incentive afforded by the Floor Market Maker ATP Fees is sufficient to incentivize open outcry trading to foster price discovery. The Exchange therefore does not believe there is a need to keep both pricing incentives in place. The Exchange believes that removing the FMM carve out would further the Exchange's stated goal for adopting the Premium Products Fee over a decade ago: to encourage meaningful Market Maker participation in the most actively-traded option issues. With this change, the Exchange's intention to encourage meaningful participation would apply to *all* Market Makers transacting in the most liquid option issues currently traded on the Exchange, regardless of open outcry volume.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>15</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>16</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed modification of the list of Premium Products is reasonable, equitable, and not unfairly discriminatory for the following reasons. First, this proposal merely revises and updates the Fee Schedule to apply the Premium Products Fee to the option issues that are currently the most-actively traded on the Exchange. The proposed change is reasonably designed to apply the Premium Product Fee solely to the most liquid issues that provide the greatest opportunities for options trading on the Exchange. In this regard, by removing certain option issues from the list (*i.e.*, BABA, BAC, EEM, and USO), the proposed rule change would ensure the Exchange continues to assess the Premium Product Fee solely on the most-actively traded option issues. By updating the list of option issues subject to the Premium Product Fees, the Exchange intends to continue to encourage meaningful market maker participation in these names. To the extent that

Market Makers maintain or increase their level of meaningful quoting activity in these option issues, all market participants stand to benefit from increased trading opportunities. Further, the Exchange believes the proposal is an equitable and not unfairly discriminatory because the updated list, and the associated fees, would apply to all similarly-situated market participants on equal and non-discriminatory basis.

The Exchange believes that the proposal to discontinue the FMM carve out is reasonable, equitable, and not unfairly discriminatory for the following reasons. First, the Exchange no longer believes that the FMM carve out is necessary. Over the last decade, since the FMM carve out was adopted, the landscape for options trading, including open outcry options trading, has changed. The volume of options traded on the Exchange (including in open outcry) has increased significantly. As was the case in 2012, the Exchange does not limit the number of participants who may act as Market Makers, either electronically or in public outcry. The Exchange believes that this fact taken together with the increase in options trading (including in open outcry) renders the favorable treatment afforded by the FMM carve out no longer necessary. As such, the Exchange believes the proposal to remove the FMM carve out is reasonable. The Exchange does not believe that the proposed discontinuation would act as a disincentive to Floor Market Makers to transact [*sic*] open outcry. Specifically, qualifying Floor Market Makers would still be entitled to reduced ATP fees which carry the same minimum monthly open outcry trading requirement. The Exchange believes that the pricing incentive afforded by the Floor Market Maker ATP Fees is sufficient to incentivize open outcry trading to foster price discovery. The Exchange therefore does not believe there is a need to keep both pricing incentives in place. The Exchange believes that removing the FMM carve out would further the Exchange's stated goal for adopting the Premium Products Fee over a decade ago: to encourage meaningful Market Maker participation in the most actively-traded option issues. With this change, the Exchange's intention to encourage meaningful participation would apply to *all* Market Makers transacting in the most liquid option issues currently traded on the Exchange, regardless of open outcry volume. As such, this proposal is equitable and not unfairly discriminatory because it would apply

to all similarly-situated market participants on an equal and non-discriminatory basis.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

## *B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*Intramarket Competition.* The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal to update the list of option issues subject to the Premium Product Fee would apply to all similarly-situated market participants on an equal and non-discriminatory basis. As noted herein, the Exchange is not proposing to alter the amount of the monthly Premium Product Fee or the associated monthly fee cap, but instead is updating the Premium Product list to reflect the most liquid option issues currently trading on the Exchange.

The Exchange believes that the proposal to discontinue the FMM carve out does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it would result in all Market Makers, including Floor Market Makers who execute at least 75% of monthly volume in open outcry, being subject to the Premium Product Fees. As a result, the Exchange's goal of encouraging meaningful participation in the most liquid option issues currently traded on the Exchange, would apply to *all* Market Makers transacting in these issues—regardless of open outcry volume. The Exchange does not believe this proposal would impose an undue burden on Floor Market Makers who previously qualified for the FMM carve out because the Exchange will continue to offer discounted ATP fees to Floor Market Makers who execute the same minimum monthly volume (*i.e.*, 75%) in open outcry. Therefore, such participants are still eligible to receive special pricing that is not available to non-Floor Market Makers.

*Intermarket Competition.* The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance

<sup>15</sup> 15 U.S.C. 78f(b).

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange.<sup>17</sup>

Because competitors are free to modify their own fees, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which this proposal may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) <sup>18</sup> of the Act and subparagraph (f)(2) of Rule 19b-4 <sup>19</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) <sup>20</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NYSEAMER-2024-13 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-NYSEAMER-2024-13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All

submissions should refer to file number SR-NYSEAMER-2024-13 and should be submitted on or before March 29, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2024-04796 Filed 3-6-24; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-99653; File No. SR-MEMX-2023-39]

#### **Self-Regulatory Organizations; MEMX LLC; Notice of Withdrawal of a Proposed Rule Change To Amend the Exchange's Fee Schedule To Adopt Connectivity and Application Session Fees for MEMX Options**

March 1, 2024.

On December 21, 2023, MEMX LLC ("MEMX" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") <sup>1</sup> and Rule 19b-4 thereunder, <sup>2</sup> a proposed rule change (File No. SR-MEMX-2023-39) to adopt connectivity and application session fees for MEMX Options. <sup>3</sup> The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act. <sup>4</sup> The proposed rule change was published for comment in the **Federal Register** on January 10, 2024. <sup>5</sup> On February 15, 2024, the Exchange withdrew the proposed rule change (SR-MEMX-2023-39).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

[FR Doc. 2024-04797 Filed 3-6-24; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>17</sup> For example, based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, no single exchange has more than 16% of market share and, the Exchange's market share in equity-based options for the month of December 2023 was approximately 8%. See <https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics> (publication by OCC of options and futures volume in a variety of formats, including daily and monthly volume by exchange).

<sup>18</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>19</sup> 17 CFR 240.19b-4(f)(2).

<sup>20</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>21</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 99275 (January 4, 2024), 89 FR 1606 (January 10, 2024) ("Notice").

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as "establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization." 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> See Notice, *supra* note 3.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 89 FR 15623, March 4, 2024.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** Wednesday, March 6, 2024, at 9:45 a.m.

**CHANGES IN THE MEETING:** The order of agenda items for the Open Meeting scheduled for Wednesday, March 6, 2024, at 9:45 a.m. has been changed as follows:

1. The Commission will consider whether to adopt rules to require registrants to provide certain climate-related information in their registration statements and annual reports.

2. The Commission will consider whether to adopt amendments to the national market system (NMS) stock order execution disclosure requirements of Regulation NMS under the Securities Exchange Act of 1934 that would expand the scope of entities subject to Rule 605, modify the categorization and content of order information reported under the rule, and require reporting entities to produce a summary report of execution quality.

**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: March 5, 2024.

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2024-05046 Filed 3-5-24; 4:15 pm]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99655; File No. SR-CBOE-2024-006]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Options That Overlie a Reduced Value of the MSCI World Index, the Full Value of the MSCI ACWI Index, and a Reduced Value of the MSCI USA Index

March 1, 2024

#### I. Introduction

On January 10, 2024, Cboe Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities

Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to list and trade options that overlie a reduced value of the MSCI World Index, the full value of the MSCI ACWI Index, and a reduced value of the MSCI USA Index. On January 17, 2024, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced the initial filing in its entirety. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on January 29, 2024.<sup>3</sup> The Commission did not receive any comments on the proposed rule change. As discussed further below, the Commission is approving the proposed rule change, as modified by Amendment No. 1.

#### II. Description of the Proposal

The Exchange proposes to list and trade options that overlie, respectively, a reduced value of the MSCI World Index (“MXWLD options”), the full value of the MSCI ACWI Index (“MXACW options”), and a reduced value of the MSCI USA Index (“MXUSA options”). Each of these indexes is a free float-adjusted market capitalization index designed to measure equity market performance. The Exchange states that these three indexes are calculated by MSCI, Inc. (“MSCI”) in U.S. dollars on a real-time basis from the open of the first market on which the components are traded to the closing of the last market on which the components are traded.<sup>4</sup> According to the Exchange, the methodology used to calculate each index is similar to the methodology used to calculate the value of other benchmark market-capitalization weighted indexes, including the MSCI EAFE and EM Indexes, on which the Exchange currently may list options.<sup>5</sup>

The MSCI World Index is designed to measure the equity performance of developed markets; specifically, it consists of large- and mid-cap component stocks from 23 developed markets, has 1,509 constituents, and covers approximately 85% of the free float-adjusted market capitalization in

each country.<sup>6</sup> The MSCI ACWI Index is designed to measure the equity performance of developed markets and emerging markets; specifically, it consists of large- and mid-cap component stocks from 23 developed markets and 24 emerging markets, has 2,946 constituents, and covers approximately 85% of the global investment opportunity set.<sup>7</sup> The MSCI USA Index is designed to measure the equity performance of large- and mid-cap segments of the U.S. market, has 625 constituents, and covers approximately 85% of the free float-adjusted market capitalization in the United States.<sup>8</sup> There are exchange traded funds (“ETF(s)”) and futures contracts overlying each of these indexes, and there are options overlying the MSCI World and MSCI ACWI ETFs that are listed on the Exchange and actively traded.<sup>9</sup>

The Exchange proposes to list MXWLD and MXUSA options based on 1/100th of the value of the respective underlying index. According to the Exchange, listing these proposed options on a reduced value of the underlying index will attract a greater source of customer business than if options were based on the full value of the index.<sup>10</sup> The Exchange states that listing these proposed options on a reduced value of the index may enhance investors’ opportunities to hedge, or speculate on, the market risk associated with the stocks comprising the index and, by reducing the value of the index, investors will be able to use this trading vehicle while extending a smaller outlay of capital.<sup>11</sup> Moreover, the Exchange states that this may attract additional investors, and, in turn, create a more active and liquid trading environment.<sup>12</sup>

The Exchange proposes to apply to each of the MSCI World, ACWI, and USA Index the same initial and maintenance listing criteria that currently apply to the MSCI EAFE and EM Indexes.<sup>13</sup> The Exchange states that this is appropriate because each of the MSCI World, ACWI, and USA Index has

<sup>6</sup> See Notice, *supra* note 3, at 5590.

<sup>7</sup> See *id.*

<sup>8</sup> See *id.*

<sup>9</sup> See *id.* For more detail regarding the calculation of the MSCI World, ACWI, and USA Indexes, see *id.* at 5589–90.

<sup>10</sup> See *id.* at 5590.

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See proposed Exchange Rule (“Rule”) 4.10(h) and (i); see also Notice, *supra* note 3, at 5590–91. The Exchange states that each of the MSCI World, ACWI, and USA Index satisfies the initial listing criteria set forth in Rule 4.10(h). See *id.* at 5590. The Commission previously approved this listing criteria when it approved the listing and trading of EAFE and EM options. See *supra*, note 5.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 99416 (January 23, 2024), 89 FR 5589 (“Notice”). In Amendment No. 1, the Exchange revised its initial proposal such that the last trading day for MSCI USA Index options would be the expiration date of the specific series. See *id.* at 5589 n. 3.

<sup>4</sup> See Notice, *supra* note 3, at 5589.

<sup>5</sup> See *id.* The Commission previously approved the listing and trading of options on the MSCI EAFE Index (“EAFE options”) and the MSCI EM Index (“EM options”). See Securities Exchange Act Release No. 74681 (April 8, 2015), 80 FR 20032 (April 14, 2015) (SR-CBOE-2015-023).



a large number of component securities and is calculated based on the same methodology as the MSCI EAFE and EM Indexes.<sup>14</sup> Consistent with the initial listing criteria, the Exchange proposes to list MXWLD, MXACW and MXUSA options on the Exchange as p.m.-settled contracts, and the Exchange also proposes that these options be cash-settled with European-style exercise, all of which is consistent with other broad-based index options, including EAFE and EM options.<sup>15</sup> The Exchange believes that it would be appropriate for MXWLD, MXACW, and MXUSA options to have the same settlement and exercise style as EAFE and EM options given that the indexes underlying all of these options are broad-based and calculated using the same methodology.<sup>16</sup>

The Exchange also proposes to amend Rules 4.12 (Dissemination of Information), 4.13 (Series of Index Options), 5.1 (Trading Days and Hours), 5.6 (Order Types, Order Instructions, and Times-in-Force),<sup>17</sup> 8.31 (Position Limits for Broad-Based Index Options),<sup>18</sup> and 8.35 (Position Limits for FLEX Options)<sup>19</sup> to add relevant references to the MSCI World, ACWI, and USA Indexes. The Exchange states that the proposed MXWLD, MXACW, and MXUSA options would be subject to the same rules regarding trading hours, trading increments, number of permissible expirations, strike intervals, settlement, exercise style and position limits that apply to currently-listed,

broad-based index options, including EAFE and EM options.<sup>20</sup>

As proposed, the last trading day for expiring MXUSA options would be the day of expiration, and, as noted above, MXUSA options would be p.m.-settled. The MSCI USA Index is comprised of components solely from the United States, which trade from 9:30 a.m. to 4:00 p.m. (Eastern time), and which would trade during that time period on the expiration date of the proposed MXUSA options. The Exchange states that allowing options to trade on their day of expiration would provide investors with the ability to modify their positions in response to changes in the prices of the underlying index components that will impact the settlement values of those options. The Exchange further states that this is the case for other p.m.-settled options overlying broad-based index options comprised solely of U.S. components.<sup>21</sup>

As proposed, and as is the case for EAFE and EM options, the last trading day for expiring MXWLD and MXACW options would be the business day prior to the expiration date of the specific series, and, as noted above, MXWLD and MXACW options would be p.m. settled. The Exchange states that, because the index components underlying these proposed options encompass multiple markets around the world, the components are subject to varying trading hours and trading in various components would end prior to the beginning of regular trading hours at 9:30 a.m. (Eastern time) for MXWLD and MXACW options.<sup>22</sup> As a result, the closing prices of those components, which are used to determine the exercise settlement value, would be determined prior to the time when the expiring options may begin trading on the expiration date, which would increase the risk associated with providing liquidity in these products on the expiration date. Therefore, the Exchange believes it is appropriate to stop trading in expiring MXWLD and

MXACW options on the business day prior to the expiration date. Further, as with p.m. settlement for MXUSA options, the Exchange believes that p.m. settlement is appropriate for MXWLD and MXACW options because investors prefer to be able to trade out of positions during the entire final day of trading.<sup>23</sup>

According to the Exchange, the proposed MXWLD, MXACW, and MXUSA options would be subject to the Exchange rules governing reporting requirements, margin requirements, customer accounts, and trading halts that already apply to other index options traded on the Exchange, such as EAFE and EM options.<sup>24</sup> With respect to reporting in particular, each Trading Permit Holder (“TPH”) or TPH organization that maintains positions in the options on the same side of the market, for its own account or for the account of a customer, must report certain information to the Exchange, including but not limited to the options’ positions, whether such positions are hedged and, if so, a description of the hedge(s).<sup>25</sup> In addition, the Exchange requires that TPHs file reports with the Exchange for any customer that held aggregate long or short positions on the same side of the market of 200 or more options contracts of any single class for the previous day.<sup>26</sup> With respect to margin, MXWLD, MXACW, and MXUSA options would be margined as “broad-based index” options.<sup>27</sup>

The Exchange represents that it has an adequate surveillance program in place for MXWLD, MXACW, and MXUSA options, and that it intends to use the same surveillance procedures to monitor trading in these options as are currently utilized for the Exchange’s other index options.<sup>28</sup> The Exchange states that it is a member of the Intermarket Surveillance Group, along with numerous other self-regulatory bodies across the world, and also an affiliate member of the International Organization of Securities Commissions.<sup>29</sup> The Exchange further states that it has entered into comprehensive surveillance agreements and/or Memoranda of Understanding with various stock exchanges.<sup>30</sup> The Exchange also represents that it believes the Exchange and the Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle

<sup>14</sup> See *id.* at 5591.

<sup>15</sup> See *id.* at 5589, 5592.

<sup>16</sup> See *id.* at 5592.

<sup>17</sup> The Exchange states that Rule 5.6(c) permits Multi-Class Spread Orders, and that the Exchange proposes to add the MSCI World and ACWI Indexes, as well as corresponding ETFs and ETF option and index option combinations to the rule, as the Exchange has determined that these combinations create appropriate hedges. See *id.*

<sup>18</sup> The Exchange proposes to apply a position limit of 50,000 contracts (with no restrictions) to MXWLD, MXACW, and MXUSA options, which is the same position limit that currently exists for many other broad-based index options, including EAFE and EM options. In addition, pursuant to Rule 8.42(b), the exercise limit for these options would be equivalent to the proposed position limit. See *id.* at 5593.

<sup>19</sup> As proposed, the Exchange may authorize for trading FLEX options on the MSCI World, ACWI, and USA Indexes. See *id.* at 5592. The Exchange proposes to amend Rule 8.35(a)(6) to provide that, like FLEX options on the MSCI EAFE and EM Indexes, the position limits for FLEX options on the MSCI World, ACWI, and USA Indexes are equal to the position limits for the non-FLEX options on these indexes (which is 50,000 contracts, as proposed). In addition, pursuant to Rule 8.42(g), the exercise limit for FLEX options on the MSCI World, ACWI, and USA Indexes would be equivalent to the FLEX option position limit. See *id.* at 5593 n.38.

<sup>20</sup> See *id.* at 5591–93, 5594, n.51 (citing Rules 4.13(a)(2), (a)(3), (b), (c), (e), Interpretation and Policy .01, and Interpretation and Policy .06; 5.1(b)(2), 5.3(a), 5.4, and 8.31).

<sup>21</sup> See *id.* at 5591, 5594, n.50.

<sup>22</sup> See *id.* at 5591. The Exchange states, by way of example, that some components end trading at 10:45 p.m. (Eastern time) on the prior trading day, and trading in other components ends at various times before and during the U.S. trading day. See *id.* at 5591 n.29. In addition, the Exchange states that the components of each of these indexes open with the start of trading in certain parts of Asia at approximately 4:00 p.m. (Eastern time) (prior day) and close with the end of trading in North America at approximately 4:00 p.m. (Eastern time) (next day), as closing prices from North American countries are accounted for in the closing calculation. See *id.* at 5592.

<sup>23</sup> See *id.* at 5592.

<sup>24</sup> See *id.* at 5595.

<sup>25</sup> See *id.*

<sup>26</sup> See *id.*

<sup>27</sup> See *id.* at 5593; see also Rule 10.3(c)(5)(A).

<sup>28</sup> See Notice, *supra* note 3, at 5593.

<sup>29</sup> See *id.*

<sup>30</sup> See *id.*

the additional message traffic associated with the listing of new series that would result from the introduction of MXWLD, MXACW, and MXUSA options.<sup>31</sup> Further, the Exchange states that any additional message traffic that would be generated from the introduction of the MSCI World, ACWI, and USA Index options would be manageable because the proposal is limited to three classes.<sup>32</sup> The Exchange also represents that it has observed no trading or capacity issues in EAFE or EM options.<sup>33</sup>

### III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6 of the Act.<sup>34</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,<sup>35</sup> which requires, among other things, that the Exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. The Commission also finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>36</sup> in that the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Permitting the trading of options on an index of securities enables investors to participate in the price movements of the index's underlying securities and allows investors holding positions in some or all such securities to hedge the risks associated with their portfolios. The Commission believes that the Exchange's proposal to permit the listing and trading of MXWLD, MXACW, and MXUSA options could benefit investors by providing them with additional investment and hedging alternatives. These three proposed products will provide investors with options instruments on broad-based indexes that are composed of actively traded, well-capitalized stocks, and that

are designed to measure the performances of developed, emerging, and domestic U.S. equity markets. Further, offering options on a reduced value of each of the MSCI World and USA Index could benefit investors, as it may attract a greater source of customer business than if these options were based on the full value of those indexes.<sup>37</sup>

Moreover, the listing and trading of the proposed MXWLD, MXACW, and MXUSA options does not raise unique regulatory concerns. Options on broad-based, MSCI indexes are not novel. The Exchange currently lists options on the MSCI EAFE and EM Indexes, which, like the indexes underlying the options proposed here, are broad-based and composed of actively traded, well-capitalized stocks.<sup>38</sup> The proposed MXWLD, MXACW, and MXUSA options will be subject to the same initial and maintenance listing criteria that already have been approved for EAFE and EM options as well as other broad-based index options. In addition, these proposed options will be subject to the same rules regarding, among other things, margin, sales practices, reporting, trading hours, trading increments, number of permissible expirations, strike intervals, settlement, exercise style, and position and exercise limits that apply to other currently-listed broad-based index options, including EAFE and EM options.<sup>39</sup> Further, there are ETFs and futures contracts overlying the same indexes that underlie the options proposed here, and options overlying two of those ETFs are listed on the Exchange and actively traded.

The Exchange's listing standards require the Exchange to reasonably believe that it has adequate system capacity to support the trading of

MXWLD, MXACW, and MXUSA options. As noted above, the Exchange represents that it believes it and the OPRA have the necessary systems capacity to handle the additional message traffic associated with the listing of new series that would result from the introduction of MXWLD, MXACW, and MXUSA options. In addition, the Exchange has observed no trading or capacity issues in EAFE or EM option trading.<sup>40</sup>

In light of the foregoing, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Finally, as a national securities exchange, the Exchange is required, under Section 6(b)(1) of the Act,<sup>41</sup> to be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by its members and persons associated with its members with the provisions of the Act, Commission rules and regulations thereunder, and its own rules. As noted above, the Exchange represents that it has an adequate surveillance program in place for MXWLD, MXACW, and MXUSA options and intends to monitor their trading using the same surveillance procedures currently utilized for the Exchange's other index options.<sup>42</sup> The Exchange also represents that the existing surveillance procedures and reporting requirements at the Exchange and other self-regulatory organizations are capable of properly identifying disruptive and/or manipulative trading activity that may arise from listing and trading MXWLD, MXACW, and MXUSA options.<sup>43</sup> Further, the Exchange represents that it conducts reviews to identify potential changes in composition of the underlying indexes and continued compliance with the Exchange's listing standards, that it conducts daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlying indexes, as applicable, and that it believes these procedures—which it will employ for MXWLD, MXACW and MXUSA options—have been effective for the surveillance of trading of other broad-

<sup>37</sup> The Commission notes that the Exchange already lists certain options on reduced index values. See Rule 4.10.

<sup>38</sup> See *supra*, note 5.

<sup>39</sup> As with EAFE and EM options, MXWLD and MXACW options' last trading day will be the business day prior to expiration. The components of the MSCI World and ACWI Indexes encompass non-U.S. markets with varying trading hours that are not coterminous with U.S. market trading hours. As a result, index component securities may not trade on the MXWLD and MXACW options' expiration date, which could introduce pricing risk for option liquidity providers on the expiration date. See Notice, *supra* note 3, at 5591, 5594 and n. 52; see also Rule 5.1(b)(2)(E). As with most broad-based, p.m.-settled index options listed on the Exchange, MXUSA options' last trading day will be the day of expiration. All of the MSCI USA Index components trade on U.S. markets, and permitting MXUSA options to trade on their expiration date would allow liquidity providers to update the prices of expiring options in response to expiration date changes in the prices of the index components. See Notice, *supra* note 3, at 5591, 5594 and n. 53; see also Rule 5.1(b)(2)(C).

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

<sup>33</sup> See *id.* at 5594.

<sup>34</sup> 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>35</sup> 15 U.S.C. 78f(b)(1).

<sup>36</sup> 15 U.S.C. 78f(b)(5).

<sup>40</sup> See Notice, *supra* note 3, at 5594.

<sup>41</sup> 15 U.S.C. 78f(b)(1).

<sup>42</sup> See Notice, *supra* note 3, at 5593.

<sup>43</sup> See *supra*, notes 28–32 and accompanying text.

based index options, including EAFE and EM options.<sup>44</sup>

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>45</sup> that the proposed rule change (SR-CBOE-2024-006), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>46</sup>

**J. Matthew DeLesDernier,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-99654; File No. SR-NYSEARCA-2024-19]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.19-E

March 1, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 16, 2024, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.19-E to make additional pre-trade risk controls available to Entering Firms and Clearing Firms. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

#### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange proposes to amend Rule 7.19-E to make additional pre-trade risk controls available to Entering Firms and Clearing Firms.

##### Background and Proposal

In 2020, in order to assist ETP Holders’ efforts to manage their risk, the Exchange amended its rules to add Rule 7.19-E (Pre-Trade Risk Controls),<sup>3</sup> which established a set of optional pre-trade risk controls by which Entering Firms and their designated Clearing Firms<sup>4</sup> could set credit limits and other pre-trade risk controls for an Entering Firm’s trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded. These pre-trade risk controls include a Gross Credit Risk Limit, which is defined in Rule 7.19-E(b)(1) as “a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both buy and sell orders are counted as positive values.” The current version of Rule 7.19-E(b)(1) specifies that both open and executed orders are considered: “[f]or purposes of calculating the Gross Credit Risk Limit, unexecuted orders in the NYSE Arca Book, orders routed on arrival pursuant to Rule 7.37-E(a)(1), and executed orders are included.”

The Exchange has recently received several requests from market participants to create two additional Gross Credit Risk Limit risk controls: one that includes only open orders and another that includes only executed orders. Market participants have explained that Entering Firms and Clearing Firms would benefit from having more granular gross credit risk

controls available, which would allow them to set limits and breach actions based solely on open orders or executed orders, in addition to the Exchange’s existing Gross Credit Risk Limit that includes both open and executed orders.

The Exchange notes that the MIA X Pearl equities exchange (“MIA X Pearl”) currently offers risk controls substantially similar to those proposed here. Specifically, MIA X Pearl offers its “Equity Members” and their “Clearing Members” the option to use a “Gross Notional Trade Value” risk check, which includes only executed orders, and a “Gross Notional Open Value” risk check, which includes only unexecuted orders, in addition to a “Gross Notional Open and Trade Value” risk check, for which both executed and unexecuted orders are included.<sup>5</sup> As such, market participants are already familiar with these various gross credit risk checks, such that the ones proposed by the Exchange in this filing are not novel.

In light of these requests, the Exchange proposes to amend Rule 7.19-E(b)(1) to rename the existing Gross Credit Risk Limit as “Gross Credit Risk Limit—Open + Executed,” and to add two additional risk limits: “Gross Credit Risk Limit—Open Only” and “Gross Credit Risk Limit—Executed Only.”

Specifically, the Exchange proposes to amend and reorganize Rule 7.19-E(b)(1) as follows. First, the Exchange would amend the language in the first sentence of the rule to refer to plural Gross Credit Risk Limits, instead of just one. At the end of the first sentence, the Exchange would add that “[a]vailable Gross Credit Risk Limits include” the three types described in new sub-sections (A), (B), and (C).

Proposed sub-section (A) would define the “Gross Credit Risk Limit—Open + Executed” risk check to include unexecuted orders in the NYSE Arca Book, orders routed on arrival pursuant to Rule 7.37-E(a)(1), and executed orders (just as the current Gross Credit Risk Limit does).

Proposed sub-section (B) would define the “Gross Credit Risk Limit—Open Only” risk check to include only unexecuted orders in the NYSE Arca Book and orders routed on arrival pursuant to Rule 7.37-E(a)(1).

Proposed sub-section (C) would define the “Gross Credit Risk Limit—Executed Only” risk check to include executed orders only.

In addition, the Exchange proposes to make a conforming change to section (c)(1)(B) of the rule, to make plural the current singular reference to “Gross Credit Risk Limit.”

<sup>44</sup> See Notice, *supra* note 3, at 5595.

<sup>45</sup> 15 U.S.C. 78s(b)(2).

<sup>46</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 88904 (May 19, 2020), 85 FR 31560 (May 26, 2020) (SR-NYSEARCA-2020-43). Later, in 2023, the Exchange amended its rules to make additional pre-trade risk controls available to Entering Firms. See Securities Exchange Act Release No. 96921 (February 14, 2023), 88 FR 10597 (February 21, 2023) (SR-NYSEARCA-2023-13).

<sup>4</sup> The terms “Entering Firm” and “Clearing Firm” are defined in Rule 7.19-E.

<sup>5</sup> See MIA X Pearl Rule 2618(a)(2)(A), (C), and (E).

As with the Exchange's existing risk controls, use of the pre-trade risk controls proposed herein would be optional. The Exchange proposes no other changes to Rule 7.19–E or its Commentary.

#### Continuing Obligations of ETP Holders Under Rule 15c3–5

The proposed Pre-Trade Risk Controls described here are meant to supplement, and not replace, the ETP Holders' own internal systems, monitoring, and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act<sup>6</sup> ("Rule 15c3–5")). Use of the Exchange's Pre-Trade Risk Controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder.<sup>7</sup>

#### Timing and Implementation

The Exchange anticipates implementing the proposed change in the first quarter of 2024 and, in any event, will implement the proposed rule change no later than the end of June 2024. The Exchange will announce the timing of such changes by Trader Update.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>9</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market

and a national market system, and, in general, to protect investors and the public interest, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed additional Pre-Trade Risk Controls would provide Entering Firms and Clearing Firms with enhanced abilities to manage their risk with respect to orders on the Exchange. The proposed additional Pre-Trade Risk Controls are not novel; they are based on existing risk settings already in place on MIAx Pearl and market participants are already familiar with the types of protections that the proposed risk controls afford.<sup>10</sup> As such, the Exchange believes that the proposed additional Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change will protect investors and the public interest because the proposed additional Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms and Clearing Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that ETP Holders implement a number of different risk-based controls, including those required by Rule 15c3–5. The controls proposed here will serve as an additional tool for Entering Firms and Clearing Firms to assist them in identifying any risk exposure. The Exchange believes the proposed additional Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's ETP Holders because use of the proposed additional Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance

of the purposes of the Act. In fact, the Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms and Clearing Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed additional Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

#### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule 19b–4(f)(6) thereunder.<sup>12</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>13</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>12</sup> 17 CFR 240.19b–4(f)(6).

<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>6</sup> See 17 CFR 240.15c3–5.

<sup>7</sup> See also Commentary .01 to Rule 7.19–E, which provides that "[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder."

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> See *supra* note 6.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NYSEARCA-2024-19 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEARCA-2024-19. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSEARCA-2024-19, and should be submitted on or before March 28, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2024-04795 Filed 3-6-24; 8:45 am]

**BILLING CODE 8011-01-P**

#### SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #20210 and #20211; TENNESSEE Disaster Number TN-20011]**

#### Administrative Declaration of a Disaster for the State of Tennessee

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Tennessee dated 03/01/2024.

*Incident:* Severe Storms and Tornadoes.

*Incident Period:* 12/09/2023.

**DATES:** Issued on 03/01/2024.

*Physical Loan Application Deadline Date:* 04/30/2024.

*Economic Injury (EIDL) Loan Application Deadline Date:* 12/02/2024.

**ADDRESSES:** Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

#### FOR FURTHER INFORMATION CONTACT:

Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at [disastercustomerservice@sba.gov](mailto:disastercustomerservice@sba.gov) or by phone at 1-800-659-2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Robertson

*Contiguous Counties:*

Tennessee: Cheatham, Davidson,

Montgomery, Sumner

Kentucky: Simpson, Todd, Logan

The Interest Rates are:

|                      | Percent |
|----------------------|---------|
| For Physical Damage: |         |

<sup>14</sup> 17 CFR 200.30-3(a)(12).

|   | Percent |
|---|---------|
| Homeowners with Credit Available Elsewhere .....                                      | 5.375   |
| Homeowners without Credit Available Elsewhere .....                                   | 2.688   |
| Businesses with Credit Available Elsewhere .....                                      | 8.000   |
| Businesses without Credit Available Elsewhere .....                                   | 4.000   |
| Non-Profit Organizations with Credit Available Elsewhere ...                          | 3.250   |
| Non-Profit Organizations without Credit Available Elsewhere .....                     | 3.250   |
| For Economic Injury:  |         |
| Business and Small Agricultural Cooperatives without Credit Available Elsewhere ..... | 4.000   |
| Non-Profit Organizations without Credit Available Elsewhere .....                     | 3.250   |

The number assigned to this disaster for physical damage is 20210C and for economic injury is 202110.

The States which received an EIDL Declaration are Kentucky, Tennessee. (Catalog of Federal Domestic Assistance Number 59008)

**Isabella Guzman,**

*Administrator.*

[FR Doc. 2024-04843 Filed 3-6-24; 8:45 am]

**BILLING CODE 8026-09-P**

#### SMALL BUSINESS ADMINISTRATION

#### Administrator's Line of Succession Designation, No.1-A, Revision 38

This document replaces and supersedes "Line of Succession Designation No. 1-A, Revision 37".

#### Line of Succession Designation No. 1-A, Revision 38

Effective immediately, the Administrator's Line of Succession Designation is as follows:

- (a) In the event the Administrator determines she is unable to perform the functions and duties of her position or if she is medically incapacitated or have died or resigned, the Administrator designates the officials in listed order below, if they are eligible to act as Administrator under the provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345-3349d), to serve as Acting Administrator with full authority to perform all acts which the Administrator is authorized to perform:
- (1) Deputy Administrator;
  - (2) Chief of Staff;
  - (3) General Counsel;
  - (4) Chief Operating Officer;
  - (5) Associate Administrator for Performance and Chief Financial Officer;
  - (6) Chief Human Capital Officer; and

(7) Deputy Associate Administrator, Office of Field Operations.

(b) An individual serving in an acting capacity in any of the positions listed in subparagraphs (a)(I) through (7), unless designated as such by the Administrator, is not also included in this Line of Succession. Instead, the next non-acting incumbent in the Line of Succession shall serve as Acting Administrator.

(c) This designation shall remain in full force and effect until revoked or superseded in writing by the Administrator.

(d) Serving as Acting Administrator has no effect on the officials listed in subparagraphs (a)(I) through (7), above, with respect to the authorities, duties, and responsibilities of their full-time positions (except that such official cannot both recommend and approve an action).

(e) Once the Administrator anticipates and/or determines she will not be able to perform the functions of the position, the Administrator will immediately notify the Office of Cabinet Affairs and White House Chief of Staff. In the event the Administrator is medically incapacitated and unable to notify those offices, the Deputy Administrator and/or Chief of Staff shall notify the Office of Cabinet Affairs, White House Chief of Staff, and Principal Policy Counterpart. Further, intra-agency stakeholders and other federal agency counterparts will be notified as necessary.

(f) The Administrator will notify the Office of Cabinet Affairs and White House Chief of Staff, once she resumes performing the function and duties as Administrator.

**Isabella Casillas Guzman,**  
Administrator.

[FR Doc. 2024-04829 Filed 3-6-24; 8:45 am]

**BILLING CODE 8026-09-P**

## **SMALL BUSINESS ADMINISTRATION**

[License No. 04/04-0312]

### **Resolute Capital Partners Fund III, L.P.; Surrender of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration under section 309 of the Small Business Investment Act of 1958, as amended, and 13 CFR 107.1900 of the Code of Federal Regulations to function as a small business investment company under the Small Business Investment Company license number 04/04-0312 issued to Resolute Capital Partners Fund

III, L.P., said license is hereby declared null and void.

**Bailey DeVries,**

*Associate Administrator, Office of Investment and Innovation, United States Small Business Administration.*

[FR Doc. 2024-04852 Filed 3-6-24; 8:45 am]

**BILLING CODE 8026-09-P**

## **SMALL BUSINESS ADMINISTRATION**

[License No. 02/02-0630]

### **High Peaks Ventures, LP; Surrender of License of Small Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration under section 309 of the Small Business Investment Act of 1958, as amended, and 13 CFR 107.1900 of the Code of Federal Regulations to function as a small business investment company under the Small Business Investment Company license number 02/02-0630 issued to High Peaks Ventures, LP, said license is hereby declared null and void.

**Bailey Devries,**

*Associate Administrator, Office of Investment and Innovation, United States Small Business Administration.*

[FR Doc. 2024-04853 Filed 3-6-24; 8:45 am]

**BILLING CODE 8026-09-P**

## **SMALL BUSINESS ADMINISTRATION**

### **SBA Lender Risk Rating System**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of revised SBA Lender Risk Rating System; request for comments.

**SUMMARY:** This notice implements changes to the Small Business Administration's (SBA's) Lender Risk Rating System. The SBA Lender Risk Rating System is an internal, off-site monitoring tool used by SBA's Office of Credit Risk Management (OCRM) to assess and monitor the risk of each active 7(a) Lender and Certified Development Company (CDC) and to inform supervision and enforcement activities. SBA is also updating the Lender Portal to reflect the changes to the SBA Lender Risk Rating System and corresponding metrics. SBA is publishing this notice with a request for comments to provide the public with an opportunity to comment.

#### **DATES:**

*Applicability Date:* This notice applies March 7, 2024.

*Comment Date:* Comments must be received on or before May 6, 2024.

**ADDRESSES:** You may submit comments, identified by Docket number SBA-2023-0016 by using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Identify comments by "Docket Number SBA-2023-0016, SBA Lender Risk Rating System," and follow the instructions for submitting comments.

- *Email:* Edward Ledford, Deputy Director, Office of Credit Risk Management, U.S. Small Business Administration, at [Edward.Ledford@sba.gov](mailto:Edward.Ledford@sba.gov).

All comments will be posted on <http://www.Regulations.gov>. If you wish to include within your comment confidential business information (CBI), as defined in the Privacy and Use Notice/User Notice at <http://www.Regulations.gov>, and you do not want that information disclosed, you must submit the comment by either Mail or Hand Delivery and you must address the comment to the attention of Edward Ledford, Deputy Director, Office of Credit Risk Management, U.S. Small Business Administration, 409 Third Street SW, 8th Floor, Washington, DC 20416. In the submission, you must highlight the information that you consider is CBI and explain why you believe this information should be held confidential. SBA will make a final determination, in its discretion, of whether the information is CBI and, therefore, will be published or not.

#### **FOR FURTHER INFORMATION CONTACT:**

Edward Ledford, Deputy Director, Office of Credit Risk Management, U.S. Small Business Administration, 409 Third Street SW, 8th Floor, Washington, DC 20416, (202) 205-7857.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background Information**

The SBA Lender Risk Rating System is a series of predictive default models that use SBA data and borrower credit data to assess the risk of each 7(a) Lender and CDC (each, an SBA Lender) on a uniform basis. The SBA Lender Risk Rating System is a deliverable under OCRM's Loan and Lender Monitoring System (L/LMS) contract. The current model redevelopment is part of the transition of the L/LMS contract to a new vendor.

SBA first introduced the SBA Lender Risk Rating System as a proposal for comment in the **Federal Register** on May 1, 2006 (71 FR 25624). SBA published the final notice in the **Federal Register** on May 16, 2007 (72 FR 27611). On March 1, 2010, SBA published a notice describing revisions to the Risk Rating System (75 FR 9257), with a

correction notice published on March 18, 2010 (75 FR 13145). In 2014, SBA revised the system again and published a notice and request for comments on April 29, 2014 (79 FR 24053). The most recent revision to the SBA Lender Risk Rating System was published in the **Federal Register** on February 16, 2021 (86 FR 9562).

## II. Request for Comments

This notice provides program participants and other parties with an explanation of the components and a description of other modeling enhancements. SBA welcomes comments and feedback on all aspects of this notice, including but not limited to the components and enhancements. SBA will review any comments received and will consider them during the next update. The changes outlined in this notice will be applicable upon publication of this notice and are expected to be incorporated in the Lender Portal update for December 31, 2023, that will post no later than the end of February 2024.

## III. SBA Lender Risk Rating System

### (A) Overview

As set forth in 13 CFR 120.1015, SBA may assign a Risk Rating to all SBA Lenders and Intermediaries on a periodic basis. Risk Ratings are based on certain risk-related portfolio performance factors as set forth in notices or SBA's SOPs and as published from time to time. On a quarterly basis, each SBA Lender is assigned a Risk Rating from 1 (which represents the lowest risk and thus that the least degree of SBA oversight is likely needed) to 5 (which represents the highest risk and that the highest degree of SBA oversight is likely needed). As indicated in 13 CFR 120.1400, SBA generally does not use the Risk Rating as the sole basis for taking a formal enforcement action against an SBA Lender pursuant 13 CFR 120.1500. Rather, consistent with SBA's authority to conduct monitoring and reviews under 13 CFR 120.1025 and 120.1050, the primary purpose of the Risk Rating is to focus SBA's oversight resources on those SBA Lenders whose portfolios demonstrate a need for further review and evaluation by SBA.

To calculate each SBA Lender's risk rating, SBA first calculates a risk score for each active 7(a) (non-PPP) and 504 loan based on the likelihood the loan will default in the next 12 months. Then, SBA assigns a Forecasted Purchase Rate (FPR) to each loan based on both the risk score and the default rate of similarly risky SBA loans over

the previous 12 months. The FPR calculation will be recalibrated on a quarterly basis. Once the loan-level FPR's are assigned, SBA calculates a Projected Purchase Rate (PPR) for each SBA Lender based on its loan portfolio's weighted average FPR. Finally, SBA will assign a Lender Risk Rating from 1-to-5 based on the PPR where:  $\text{PPR} < 1\% = \text{LRR } 1$ ;  $\text{PPR } 1\% \text{ to } < 2\% = \text{LRR } 2$ ;  $\text{PPR } 2\% \text{ to } < 4\% = \text{LRR } 3$ ;  $\text{PPR } 4\% \text{ to } < 8\% = \text{LRR } 4$ ; &  $\text{PPR } 8\%+ = \text{LRR } 5$ . OCRM may change the PPR to LRR assignments in the future, if appropriate.

SBA has and will continue to perform annual validations of the Lender Risk Rating. The personnel performing the validation will be separate from the model developers.

SBA Lenders can access their Risk Rating and other key metrics through SBA's Lender Portal. Additionally, an SBA Lender can view the factors that impact the Risk Rating for each loan in its portfolio.

### (B) Redevelopment Process

The goals of the redevelopment include: (i) improve the accuracy of the SBA Lender Risk Rating (LRR); (ii) ensure model reliability across economic conditions; (iii) increase transparency and usability to the SBA Lender; (iv) incorporate the latest SBA performance data; and (v) evaluate new variables that can provide additional insight into SBA Lender and portfolio risk.

SBA reviewed over 500 potential variables from SBA's L/LMS archive along with over 2,500 potential variables from Experian's commercial and consumer sources over a 14-year period (2008 through 2022). This wide array of variables was evaluated using a rigorous and thorough statistical process utilizing the Extreme Gradient Boosted (XGB) machine learned modeling method. Through this method, a comprehensive set of SBA account characteristic and payment behavior variables, and consumer and commercial credit risk variables covering credit age, payment experiences, utilization, derogatory events, and inquiries, was selected and optimized to predict the likelihood of actual defaults.

### (C) Enhancements

The most notable changes in the new Risk Rating System are:

1. Utilization of XGB Machine Learned Modeling Method. The XGB machine learned modeling method (XGB) was used to predict the probability of loan default. A significant advantage of XGB is the ability to incorporate hundreds of predictive risk

variables through the development of hundreds of decision trees, each learning from the deficiencies of the prior developed trees and able to improve on the deficiencies of the prior developed trees. This ensemble of decision tree models works together to generate a more comprehensive and accurate SBA Lender Risk Rating system.

2. Changes to Segmentation. The redeveloped 7(a) and 504 loan program models each have three segments based on the availability of credit bureau data: (i) a blended segment is used when business and consumer credit information is available from Experian; (ii) a consumer segment is used when only the consumer credit information is available; and (iii) a commercial segment is used when only the commercial credit information is available. SBA loan data is also incorporated in all segments. Each segment comprises an ensemble of up to 300 decision trees utilizing 100+ model variables across the SBA and Experian credit attributes.

3. Model Development Spans Multiple Economic Cycles. The model development population spanned from 2008 through 2022, capturing multiple economic cycles, from the housing market contraction, financial crisis and resulting recession from 2008 through 2010, a period of stable economic prosperity from 2015 through 2019, and the COVID-19 pandemic period from 2020 through 2022. By developing the model across different vintages, SBA avoids creating a model that is fitted and optimized to be predictive in only one specific economic condition. Instead, SBA developed a model that is robust and can perform under varying economic conditions.

### (D) Rating Components

The SBA Lender Risk Rating System uses two types of data sources: SBA loan data and Experian credit bureau data. SBA loan data includes detailed loan- and borrower-level information from SBA's database. The credit bureau data includes information on the small business borrower from Experian's credit databases. The borrower information from Experian includes business and business owner credit information. The previous Risk Rating model was designed with six segments that each had a distinct and separate model algorithm using up to eleven data variables. In the new model, each segment comprises an ensemble of up to 300 decision trees and utilizes over a hundred data variables. Below is a summary of the data types and most significant variables.



## 1. SBA Loan Data Types

- *Loan Payment Behavior*: the loan's current payment status, historical payment behaviors, months since disbursement, and whether the SBA Lender reported the loan status on their most recent 1502 report.
- *Loan characteristics*: loan amount, loan term, fixed or variable interest, revolver status, and sold on secondary market indicator.
- *Business characteristics*: risk associated with the North American Industry Classification System (NAICS) sector.

## 2. Experian Borrower Data Types

- Consumer information
  - *Account payment experiences*: how the business owner has been paying their consumer financial obligations currently and historically.
  - Payment experience is assessed across all account types and by specific account types including credit card, line of credit, auto loan and lease, and personal loan.
  - Worst status and number of delinquent accounts are assessed as of the rating date, and historically over multiple intervals, such as past month, 3 months, 6 months, 12 months, etc.
  - *Credit depth and history*: by all account types and by specific account types.
  - Age of the oldest account and the average age of the oldest account.
  - Number of accounts open, number of recently opened account.
  - Recent credit inquiries.
  - The total balance outstanding.
  - Scheduled monthly payments.
  - The balance to credit ratio.
  - *Credit inquiries*: recency and frequency of consumer credit inquiries.
- Business information.
  - *Account payment experiences*: how the business has been paying its financial obligations currently and historically. Factors include the number of current and delinquent accounts, the worst status across all accounts as of the report date and historically up to the past 36 months. Total balance outstanding, balance that is current, and delinquent balance are assessed.
  - Credit depth and history.
  - Total number of accounts, total number of active and inactive accounts, total number of newly opened accounts.
  - Recent credit inquiries.
  - Total balance outstanding.
  - Balance to credit ratio.
  - Derogatory events.
  - Recency, frequency, and dollar value of accounts sent to collections agencies, tax lien filings, judgments, and bankruptcies.

- Credit inquiries: recency and frequency.
- UCC filings: recency and frequency.

### (E) Overriding Factors

As with prior LRR models, the redeveloped SBA Lender Risk Rating System gives SBA discretion to adjust an SBA Lender's calculated rating on a case-by-case basis when the occurrence of factors not incorporated in the rating (overriding factors) lead SBA to conclude that the calculated rating is not fully reflective of a lender's true risk.

Such overriding factors may apply to a particular SBA Lender or group of SBA Lenders. Overriding factors may result from SBA Lenders' risk-based reviews, examinations and/or evaluations. SBA routinely conducts reviews of SBA Lenders, performs examinations of SBA Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders (NFRs), and uses certain evaluation measures for other SBA Lenders. Examples of other overriding factors include, but are not limited to: enforcement or other actions of regulators or other authorities, including, but not limited to, Cease & Desist orders by, or related agreements with, Federal Financial Institution Regulators (FFIRs); capital adequacy levels not in conformity with FFIRs; secondary market issues and concerns; receipt of a Going Concern opinion issued by an independent auditor; early loan default trends; purchase rate or projected purchase rate trends; abnormally high default, purchase or liquidation rates; denial of liability occurrences; lending concentrations; rapid growth of SBA lending; net yield rate (or losses) significantly worse than average; violation of SBA Loan Program Requirements; inadequate, incomplete, or untimely reporting to SBA; fraud/indictment of lender, officers, or key employees; an identified condition that affects capital, solvency or prudent commercial lending ability; inaccurate submission of required fees or amounts due SBA or the Federal Government; and other risk-related or program integrity concerns.

### (F) Confidential Information

Each SBA Lender must handle its Reports, Risk Ratings, and related Confidential Information in accordance with the confidentiality requirements set forth in 13 CFR 120.1060, Confidentiality of Reports, Risk Ratings, and related Confidential Information. Under this regulation, Reports, Risk Ratings, and Confidential Information are privileged, confidential, and the property of SBA. Further, the regulation

states that such information may not be relied upon for any purpose other than SBA's lender oversight and SBA's portfolio management purposes. In addition, the SBA Lender is prohibited from disclosing its Report, Risk Rating, and Confidential Information, in full or in part, in any manner, without SBA's prior written permission, and the SBA Lender must not make any representations concerning the information (including Report findings, conclusions, and recommendations), the Risk Rating, or the Confidential Information. SBA Lenders can email [OCRM@sba.gov](mailto:OCRM@sba.gov) to request SBA permission to share this information.

13 CFR 120.1060(a) defines "Report" to mean "the review or examination report and related documents." It also provides that Confidential Information "is defined in the SBA Lender information portal and by notice issued from time to time." The SBA Lender information portal currently defines "Confidential Information" to mean all SBA Lender-related information/data contained in the Lender Portal except the dollar amounts associated with SBA purchase of and charge-off of SBA Lender's loans and information already publicly available related to the Lender's capital, non-performing assets, and regulatory actions (e.g., from a bank's public Call Report). Confidential Information also includes any information related to SBA's supervision of the SBA Lender (e.g., review or corrective action correspondence) and any actions taken by SBA related to enforcement (e.g., informal enforcement actions as defined in SOP 50 53 or by regulation, notices of proposed enforcement action) unless made public by SBA (e.g., in a Cease and Desist Order).

SBA includes the last sentence because it has long treated supervisory and enforcement information as confidential information and this information is generally related to a risk-based review or examination and, therefore, covered by the confidentiality provisions in 13 CFR 120.1060 and/or FOIA exemption 8. SBA may disclose Reports, Risk Ratings, and Confidential Information in its discretion; however, such disclosures do not waive SBA Lender's obligation under 13 CFR 120.1060 to maintain the confidentiality of the information.

### (G) Conclusion

In conclusion, industry best practices and changes in the SBA portfolio, programs, and available data necessitate that the SBA Lender Risk Rating System be periodically redeveloped. This notice marks the fourth redevelopment of the

SBA Lender Risk Rating System. SBA will further refine the model as necessary to maintain or improve the predictiveness of its risk scoring.

**Authority:** 15 U.S.C. 633(b)(3); 15 U.S.C. 634(b)(6) and (7); 15 U.S.C. 657; 15 U.S.C. 687(f); and 13 CFR 120.10, 120.1015, 120.1025, 120.1050, 120.1060.

**Isabella Casillas Guzman,**  
*Administrator of the U.S. Small Business Administration.*

[FR Doc. 2024-04830 Filed 3-6-24; 8:45 am]

**BILLING CODE 8026-09-P**

## SMALL BUSINESS ADMINISTRATION

[License No. 03/03-0259]

### Leeds Novamark Capital I, L.P.; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under section 309 of the Small Business Investment Act of 1958, as amended, and 13 CFR 107.1900 of the Code of Federal Regulations to function as a small business investment company under the Small Business Investment Company license number 03/03-0259 issued to Leeds Novamark Capital I, L.P., said license is hereby declared null and void.

**Bailey Devries,**  
*Associate Administrator, Office of Investment and Innovation, United States Small Business Administration.*

[FR Doc. 2024-04846 Filed 3-6-24; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF STATE

[Public Notice: 12355]

### Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Georgia O’Keeffe: “My New Yorks”” Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Georgia O’Keeffe: “My New Yorks”” at The Art Institute of Chicago, in Chicago, Illinois; the High Museum of Art, Atlanta, Georgia; and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these

determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street, NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

**Nicole L. Elkon,**  
*Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2024-04860 Filed 3-6-24; 8:45 am]

**BILLING CODE 4710-05-P**

## DEPARTMENT OF STATE

[Public Notice: 12357]

### Notice of a Public Meeting in Preparation for International Maritime Organization Facilitation Committee (FAL), 48th Session

The Department of State will conduct a public meeting at 9:00 a.m. on Tuesday, April 2, 2023, by way of Microsoft Teams, teleconference, and in-person at the offices of ABSG Consulting in Washington, DC. The primary purpose of the meeting is to prepare for the forty-eighth session of the International Maritime Organization’s (IMO) Facilitation Committee (FAL 48) to be held in person at IMO Headquarters in London, United Kingdom, and in hybrid format from Monday, April 8, 2024, to Friday, April 12, 2024.

Members of the public may participate in-person, via Microsoft Teams, or up to the capacity of the teleconference phone line. To RSVP, participants should contact the meeting coordinator, Mr. James Bull, by email at [James.T.Bull@uscg.mil](mailto:James.T.Bull@uscg.mil). The meeting location will be the offices of ABSG Consulting at 80 M Street SE, Washington, DC 20003 and the Microsoft Teams access and/or

teleconference line will be provided to those who RSVP.

The agenda items to be considered at this meeting include:

- Adoption of the agenda; report on credentials
- Decisions of other IMO bodies
- Consideration and adoption of amendments to the Convention
- Review and update of the Explanatory Manual to the FAL Convention
- Application of single window concept
- Review and revision of the IMP Compendium of Facilitation and Electronic Business, including additional e-business solutions
- Development of guidelines on Port Community Systems
- Measures to address Maritime Autonomous Surface Ships (MASS) in the instruments under the purview of the Facilitation Committee
- Development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic
- Introduction of the API/PNR concept in maritime transport
- Analysis of possible means of auditing compliance with the Convention on Facilitation of International Maritime Traffic
- Unsafe mixed migration by sea
- Consideration and analysis of reports and information on persons rescued at sea and stowaways
- Technical cooperation activities related to facilitation or maritime traffic
- Relations with other organizations
- Application of the Committee’s procedures on organization and method of work
- Work program
- Election of Chair and Vice-Chair for 2024
- Any other business
- Consideration of the report of the Committee on its forty-eighth session

Those who plan to participate may contact the meeting coordinator, Mr. James Bull, by email at [James.T.Bull@uscg.mil](mailto:James.T.Bull@uscg.mil) or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7501, Washington, DC 20593-7501. Members of the public needing reasonable accommodation should advise James Bull not later than March 19, 2024. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: <https://www.dco.uscg.mil/IMO>.

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

**Leslie W. Hunt,**

*Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2024-04894 Filed 3-6-24; 8:45 am]

BILLING CODE 4710-09-P

## DEPARTMENT OF STATE

[Public Notice: 12354]

### Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: “David Medalla: In Conversation With the Cosmos” Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition “David Medalla: In Conversation with the Cosmos” at the Armand Hammer Museum of Art and Cultural Center, Los Angeles, California, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

**Nicole L. Elkon,**

*Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2024-04859 Filed 3-6-24; 8:45 am]

BILLING CODE 4710-05-P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2024-0002]

### Request for Comments on Promoting Supply Chain Resilience

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Request for comments and notice of public hearing.

**SUMMARY:** The Office of the United States Trade Representative (USTR) requests comments and will hold a public hearing to inform objectives and strategies that advance U.S. supply chain resilience in trade negotiations, enforcement, and other initiatives.

**DATES:** You must submit comments and responses in accordance with the following schedule:

*April 12, 2024:* Due date for filing requests to appear and a summary of expected testimony at the public hearing.

*April 22, 2024:* Due date for submission of written comments.

*May 2, 2024:* USTR will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436 beginning at 10:00 a.m.

*May 16, 2024:* Due date for submission of post-hearing written comments from persons who testified at the public hearing.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov> (*Regulations.gov*). The instructions for submitting comments are in sections IV and V below. The docket number is USTR-2024-0002. For alternatives to on-line submissions, please contact Sandy McKinzy at (202) 395-9483 in advance of the deadline.

**FOR FURTHER INFORMATION CONTACT:** Special Counsel Victor Ban at (202) 395-5962 or [supplychain@ustr.eop.gov](mailto:supplychain@ustr.eop.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Strengthening our supply chains is a critical component of the Biden-Harris Administration's efforts to advance our worker-centered trade policy, create sustainable economic growth, ensure that our economy is more resilient in the face of supply shocks, and enhance U.S. economic security. From the COVID-19 pandemic to Russia's full-scale invasion of Ukraine, Americans have felt first-hand the impacts of supply chain disruptions, which include volatile prices for critical

consumer goods and medical products and widespread product shortages that contribute to inflationary dynamics. Further, global supply chains have been designed to maximize short-term efficiency and minimize costs, leading to greater vulnerability and unsustainable dependencies, and furthermore have promoted trade that may not reflect our core values, like labor standards and environmental protection.

This is why the Administration is undertaking a whole-of-government effort to proactively strengthen domestic manufacturing and to secure trusted supply chains through strategic arrangements with trusted partners (friend-shoring) and with regional partners (near-shoring). The President is using all the tools at his disposal, including new authorities under the CHIPS and Science Act, Inflation Reduction Act, and Bipartisan Infrastructure Law, to incentivize the re-shoring and domestic expansion of critical supply chains. Enduring resilience will require new investments in infrastructure, new incentives to increase the supply of key inputs, and new forms of cooperation with allies and trading partners to prevent and withstand supply chain disruptions and mitigate risks of price spikes and volatility that could contribute to inflationary dynamics.

To advance these policy priorities on behalf of the American people, USTR has been crafting a new approach to trade and investment policy that promotes supply chain resilience. Resilient supply chains provide a range of sources for critical inputs; adapt, rebound, and recover with agility when faced with economic shocks; uphold labor rights and environmental protections; and strengthen the domestic manufacturing base and workforce that drive economic growth and world-class American innovation.

Over the last several decades, however, U.S. trade and investment policy—including rules related to supply chains—were designed to incentivize short-term cost-efficiency and drive tariff liberalization, with the goal of creating an unfettered global marketplace. This approach helped shape producers' decision-making that, in many cases, fostered geographically concentrated and operationally complex supply chains. For instance, natural disasters overseas in 2011 disrupted “just-in-time” supply chains with significant negative impacts for U.S. automakers. In geopolitically fraught regions, the challenges are frequently even greater; when low cost is the driver of sourcing decisions, and absent

incentives for improving standards over time, production becomes increasingly consolidated in economies with lower labor standards, weaker environmental protections, and transparency and governance challenges.<sup>1</sup> This is the race to the bottom. It leaves critical sectors vulnerable to non-market policies and practices, economic coercion, and other unfair trade practices, and deprives consumers of goods whose production reflects our core values. It has also contributed to the hollowing out of the American industrial base and vital U.S. jobs, and harmed many of our communities and working families, undermining support for democracy itself.

Under the Biden-Harris Administration, USTR endeavors to empower American workers and businesses, large and small, that are recalibrating and rebuilding secure and trusted supply chains for resilience, through a new approach to trade and investment policy—one that is supported by innovative strategies, tools, and mechanisms, and also integrated with domestic economic policy to position U.S. manufacturing and services for continued leadership and competitiveness. This approach also entails collaborating with trading partners and allies to incentivize a race to the top through stronger coordination and alignment on labor and environmental protections within trusted networks, and to build our middle classes together, rather than pitting them against each other.

Through trade negotiations, efforts to enforce fair trade, and other engagement with trading partners, USTR seeks to advance and implement these principles of supply chain resilience—transparency, diversity, security, and sustainability. To promote transparency, USTR confronts supply chain risks arising from unfair trade and competition practices among our trading partners. To enhance diversity, USTR creates opportunities for businesses of all sizes to increase sourcing options, including those located domestically and in underserved communities.<sup>2</sup> To bolster security, USTR takes trade action

to facilitate the strengthening of agile supply chains with trusted networks sharing our values, including through friend-shoring and near-shoring in furtherance of high-quality economic growth. And to support sustainability, USTR works to promote respect for labor standards and environmental protections governing global supply chains and to strengthen those standards and protections.

By strengthening resilient supply chains, trade and investment policy can help ensure the prosperity of American workers, businesses, and communities, foster a broad American industrial base, and fortify our partnerships with trusted partners and allies.

## II. Public Comments

USTR invites comments to inform the development of trade and investment policy initiatives that promote supply chain resilience, as outlined above.

Responses should:

- Be written in clear, concise, and plain language.
- Include the name and a brief description of the individual or organization submitting the comment.
- If applicable, identify the specific question(s) the comment addresses.

Commenters should submit information related to one or more of the following questions:

1. How can U.S. trade and investment policy, in conjunction with relevant domestic incentive measures, better support growth and investment in domestic manufacturing and services?
2. What existing or new tools could help ensure that growth in domestic manufacturing and services does not undergo the same offshoring that we have experienced over the past few decades?
3. How can U.S. trade and investment policy promote a virtuous cycle and “race to the top” through stronger coordination and alignment on labor and environmental protections within trusted networks among regional and like-minded trading partners and allies?
4. What are examples of trade and investment policy tools that potentially could be deployed in the following sectors to enhance supply chain resilience? In these sectors, what features of the current policy landscape are working well, or less well, to advance resilience?

- Aerospace and aerospace components.
- Agriculture, forestry, and fisheries.
- Automobiles and automotive parts.
- Call centers, business processing operations, and related services.
- Critical minerals, including for electric vehicle and large-scale energy storage batteries, and related recycling.

- Metals.
- Pharmaceutical and medical goods.
- Semiconductors, microelectronics, and inputs thereto.
- Renewable energy generation, transmission, and storage, including solar and wind technology and inputs thereto.

- Textiles, such as yarns, fabrics, apparel, and other finished goods.

5. What additional sectors may need dedicated trade and investment policy approaches to advance supply chain resilience? What should such approaches entail? With respect to those sectors, what features of the current policy landscape are working well, or less well, to advance resilience?

6. Across sectors, how does access to capital equipment, manufacturing equipment, and technology support supply chain resilience for U.S. producers, and is there a role for trade and investment policy?

7. How can the development of technical standards and regulations support supply chain resilience?

8. There is concern that preferential rules of origin in free trade agreements can operate as a “backdoor” benefiting goods and/or firms from countries that are not party to the agreements and are not bound by labor and environmental commitments. What actions could be taken to mitigate these risks and maximize production in the parties? What policies could support strong rules of origin and adherence to rules of origin?

9. What factors are driving supply chain and sourcing decisions, and how does trade and investment policy impact them? How do companies factor geopolitical risk into their global and domestic manufacturing and sourcing decisions? How do companies take into account traceability and transparency considerations in supply chain and sourcing decisions?

10. To what extent is supply chain resilience shaping capital allocation decisions among industry and investors?

11. How can supply chain resilience be measured, including the costs of insufficient resilience, and the impacts of trade and investment policy on resilience? What are appropriate quantitative or qualitative data to consider?

12. How can U.S. trade and investment policy support supply chains that are inclusive of small disadvantaged businesses and underserved businesses, including minority-owned and women-owned businesses, veteran-owned businesses, service-disabled veteran owned small businesses, and HUBZone businesses,

<sup>1</sup> The original Bretton Woods vision for trade, embodied in the Charter of the International Trade Organization, included labor standards and exemptions from certain trade rules for conservation agreements. However, the rules never entered into force because certain American trade associations, in conjunction with Members of Congress who supported weakening domestic labor rights, opposed U.S. ratification of the Charter.

<sup>2</sup> The term “underserved communities” refers to those populations, as well as geographic communities, that have been systematically denied the opportunity to participate fully in aspects of economic, social, and civic life, as defined in Executive Orders 13985 and 14020.

and promote trade opportunities in underserved communities?

### III. Hearing Participation

USTR will convene a public hearing in the main hearing room of the U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, beginning at 10:00 a.m. on May 2, 2024. You must submit requests to appear at the hearing by April 12, 2024. The request to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing will be limited to five minutes to allow for possible questions from USTR staff. USTR may arrange regional hearings or meetings subsequent to the public hearing noted above.

### IV. Requirements for Submissions

To be assured of consideration, submit any request to appear at the hearing by the April 12, 2024 deadline, any written comments by the April 22, 2024 deadline, and any post-hearing written comments by the May 16, 2024 deadline. All submissions must be in English. USTR strongly encourages submissions via *Regulations.gov*. The docket number is USTR–2024–0002.

To submit via *Regulations.gov*, use Docket Number USTR–2024–0002 in the ‘search for’ field on the home page and click ‘search.’ The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ‘notice’ under ‘document type’ in the ‘refine documents results’ section on the left side of the screen and click on the link entitled ‘comment.’ *Regulations.gov* allows users to make submissions by filling in a ‘type comment’ field, or by attaching a document using the ‘upload file’ field. USTR prefers that you provide submissions in an attached document named according to the following protocol, as appropriate: Commenter Name or Organization\_Supply Chain Resilience. If you provide submissions in an attached document, please type “see attached comments” in the ‘comment’ field on the online submission form.

Requests to appear at the hearing must include the name, address, email address, and telephone number of the person presenting the testimony in the ‘type comment’ field. Attach a summary of the testimony, and a pre-hearing submission if provided, by attaching a document using the ‘upload file’ field. The file name should include the name of the person who will be presenting the testimony. In addition, please submit a request to appear by email to Special Counsel Victor Ban, at [supplychain@ustr.eop.gov](mailto:supplychain@ustr.eop.gov).

In the subject line of the email, please include the name of the person who will be presenting the testimony, followed by ‘Request to Appear’. In the body of the email, include the name, address, email address, and telephone number of the person presenting testimony.

USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the ‘type comment’ field.

Please include any information that might appear in a cover letter, exhibits, annexes, or other attachments in the same file as the comment itself, rather than submitting them as separate files.

Please include the name, email address, and telephone number of an individual USTR can contact if there are issues or questions with the submission.

You will receive a tracking number upon completion of the submission procedure at *Regulations.gov*. The tracking number is confirmation that *Regulations.gov* received your submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for *Regulations.gov*.

For further information on using *Regulations.gov*, please consult the resources provided on the website by clicking on ‘How to Use *Regulations.gov*’ on the bottom of the home page. You can contact the *Regulations.gov* help desk at [regulationshelpdesk@gsa.gov](mailto:regulationshelpdesk@gsa.gov) or 1–866–498–2945 for help with technical questions on submitting comments on *Regulations.gov*.

If you are unable to submit through *Regulations.gov* after seeking assistance from the help desk, please contact Sandy McKinzy at (202) 395–9483 before transmitting your application and in advance of the deadline to arrange for an alternative method of transmission. USTR will not accept hand-delivered submissions. USTR may not consider submissions that you do not make in accordance with these instructions.

General information concerning USTR is available at <https://www.ustr.gov>.

### V. Business Confidential Information (BCI) Submissions

If you ask USTR to treat information you submit as BCI, you must certify that the information is business confidential and that you would not customarily release it to the public. For any comments submitted electronically containing BCI, the file name of the business confidential version should begin with the characters ‘BCI.’ You must clearly mark any page containing BCI with ‘BUSINESS CONFIDENTIAL’

on the top of that page. Filers of submissions containing BCI also must submit a public version that will be placed in the docket for public inspection. The file name of the public version should begin with the character ‘P.’ Follow the ‘BCI’ and ‘P’ with the name of the individual or organization submitting the comments.

### VI. Public Viewing of Review Submissions

USTR will post written submissions in the docket for public inspection, except properly designated BCI. You can view comments on *Regulations.gov* by entering Docket Number USTR–2024–0002 in the search field on the home page.

**Juan Millan,**

*Acting General Counsel, Office of the United States Trade Representative.*

[FR Doc. 2024–04869 Filed 3–6–24; 8:45 am]

BILLING CODE 3390–F4–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA–2024–0460]

### Notice of Intent To Designate as Abandoned North American Flying Service Supplemental Type Certificate No. SA1–150

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

**ACTION:** Notice of intent to designate North American Flying Service Supplemental Type Certificate as abandoned; request for comments.

**SUMMARY:** This notice announces the FAA’s intent to designate North American Flying Service Supplemental Type Certificate (STC) No. SA1–150 as abandoned and make the related engineering data available upon request. The FAA has received a request to provide engineering data concerning this STC. The FAA has been unsuccessful in contacting North American Flying Service concerning the STC. This action is intended to enhance aviation safety.

**DATES:** The FAA must receive all comments by September 3, 2024.

**ADDRESSES:** You may send comments on this notice by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.
- *Mail:* Gary Wechsler, AIR–755, FAA, East Certification Branch, 1701 Columbia Avenue, College Park, Georgia 30337.

• *Email:* Gary.Wechsler@faa.gov. Include “Docket No. FAA–2024–0460” in the subject line of the message.

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

**FOR FURTHER INFORMATION CONTACT:** Gary Wechsler, Aerospace Engineer, AIR–755, FAA, East Certification Branch, 1701 Columbia Avenue, College Park, Georgia 30337; phone 404–474–5575; email Gary.Wechsler@faa.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites interested parties to provide comments, written data, views, or arguments relating to this notice. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2024–0460” at the beginning of your comments. The FAA will consider all comments received on or before the closing date. All comments received will be available in the docket for examination by interested persons.

##### **Background**

The FAA is posting this notice to inform the public of the intent to designate North American Flying Service STC No. SA1–150, for the installation of a Continental C–85–8 engine, Sensenich 75GK–50 propeller, and Harrison HE431–9 engine oil cooler in Type Certificate A–675, Aeronca Aircraft Corporation, S–65–CA airplanes, as abandoned and subsequently release the related engineering data.

The FAA has received a third-party request for the release of the aforementioned engineering data under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552. The FAA cannot release commercial or financial information under FOIA without the permission of the data owner. However, in accordance with title 49 of the United States Code 44704(a)(5), the FAA can provide STC “engineering data” it possesses for STC maintenance or improvement, upon request, if the following conditions are met:

1. The FAA determines the STC has been inactive for three or more years;
2. Using due diligence, the FAA is unable to locate the owner of record or the owner of record’s heir; and
3. The availability of such data will enhance aviation safety.

There has been no activity on this STC for more than three years.

On October 12, 2023, the FAA sent a certified letter to North American Flying

Service at its last known address, 502 Hamilton St., Allentown, PA 18101. The letter informed North American Flying Service that the FAA had received a request for engineering data related to STC No. SA1–150 and was conducting a due diligence search to determine whether the STC was inactive and may be considered abandoned. The letter further requested that North American Flying Service respond in writing within 60 days and state whether it is the holder of the STC. The FAA also attempted to make contact with North American Flying Service by other means, including telephone communication and emails, without success.

##### **Information Requested**

If you are the owner or heir or a transferee of STC No. SA1–150 or have any knowledge regarding who may now hold STC No. SA1–150, please contact Gary Wechsler using a method described in this notice under **FOR FURTHER INFORMATION CONTACT**. If you are the heir of the owner or the owner by transfer of STC No. SA1–150, you must provide a notarized copy of your government-issued identification with a letter and background establishing your ownership of the STC and, if applicable, your relationship as the heir to the deceased holder of the STC.

##### **Conclusion**

If the FAA does not receive any response by September 3, 2024, the FAA will consider STC No. SA1–150 abandoned, and the FAA will proceed with the release of the requested data. This action is for the purpose of maintaining the airworthiness of an aircraft and enhancing aviation safety.

Issued on March 1, 2024.

**Victor Wicklund,**

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

[FR Doc. 2024–04816 Filed 3–6–24; 8:45 am]

**BILLING CODE 4910–13–P**

#### **DEPARTMENT OF TRANSPORTATION**

##### **Federal Highway Administration**

[Docket No. FHWA–2024–0016]

##### **Agency Information Collection Activities: Notice of Request for Revision of Currently Approved Information Collection**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of request for extension of currently approved information collection.

**SUMMARY:** The FHWA invites public comments about our intention to request the Office of Management and Budget’s (OMB) approval for renewal of an existing information collection that is summarized below under

**SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by May 6, 2024.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number 0016 by any of the following methods:

*Website:* For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

*Fax:* 1–202–493–2251.

*Mail:* Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

*Hand Delivery or Courier:* U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Petty, 202–366–6654, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, between 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

##### **SUPPLEMENTARY INFORMATION:**

*Title:* Assessment of Transportation Planning Agency Needs, Capabilities and Capacity.

*OMB Control #:* 2125–0655.

*Background:* The Federal Highway Administration (FHWA) is committed to advancing the transportation planning process working with States, Metropolitan Planning Organizations, Tribal governments, and transit operators as they make long- and short-range transportation improvement priorities in coordination with the traveling public, the business community, community groups, environmental organizations, and freight operators. Through this effort FHWA will update information on the current state of the practice, data, methods, and systems used by State, metropolitan, regional, local, and Tribal transportation planning entities to support their required planning process

in accordance with title 23 United States Code 134 and 135. This information will be used to develop and deliver existing and future Federal Highway Programs through successful partnerships, value-added stewardship, and risk-based oversight. This effort ensures FHWA's renewed focus on equity and organizational excellence, which translates into having a skilled workforce and support system positioned and equipped to deliver its mission.

**Respondents:** 50 State Transportation Departments, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands; Metropolitan Planning Organizations (MPO), Tribal Governments, and/or Regional Planning Organizations (RPO).

**Estimated Average Burden per Response:** Each State, MPO, Tribal Government, and RPO will be solicited to provide information up to two times per year. The annual number of burden hours (professional and clerical staff) per respondent to answer questions on the current state of the practice, data, methods, and systems used by State, metropolitan, regional, local, and Tribal transportation planning entities to support their required planning process is estimated to be 3 (biannually  $\times$  1.5 hours). The total annual burden for all respondents is estimated to be 2,850 burden hours (3 burden hours per respondent times 950 respondents).

**Estimated Total Annual Burden Hours:** Total estimated average annual burden is 2,850 hours.

**Public Comments Invited:** You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 4, 2024.

**Jazmyne Lewis,**

*Information Collection Officer.*

[FR Doc. 2024-04847 Filed 3-6-24; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2024-0030]

#### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: HIKARI (SAIL); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 8, 2024.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2024-0030 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0030 and follow the instructions for submitting comments.
- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0030, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](https://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: [patricia.hagerty@dot.gov](mailto:patricia.hagerty@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel HIKARI is:

- Intended Commercial Use of Vessel:** Requester intends to offer occasional, seasonal charters
- Geographic Region Including Base of Operations:** Washington. Base of Operations: Seattle, WA
- Vessel Length and Type:** 49' monohull sailboat

The complete application is available for review identified in the DOT docket as MARAD 2024-0030 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

##### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

##### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0030 or visit the Docket



Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to [SmallVessels@dot.gov](mailto:SmallVessels@dot.gov). Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

#### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2024-04900 Filed 3-6-24; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2024-0029]

#### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SOUTHERN SKY (MOTOR); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 8, 2024.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2024-0029 by any one of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Search MARAD-2024-0029 and follow the instructions for submitting comments.
- **Mail or Hand Delivery:** Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0029, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](https://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: [patricia.hagerty@dot.gov](mailto:patricia.hagerty@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SOUTHERN SKY is:

- Intended Commercial Use of Vessel:** Requester intends to offer daily charters in the Hilton Head area.
- Geographic Region Including Base of Operations:** South Carolina, Georgia. Base of Operations: Hilton Head, SC.
- Vessel Length and Type:** 51' power catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024-0029 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

##### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

##### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0029 or visit the Docket

Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to [SmallVessels@dot.gov](mailto:SmallVessels@dot.gov). Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

#### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2024-04896 Filed 3-6-24; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2024-0031]

#### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VALIANT II (MOTOR); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 8, 2024.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2024-0031 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0031 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0031, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](https://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: [patricia.hagerty@dot.gov](mailto:patricia.hagerty@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel VALIANT II is:

- Intended Commercial Use of Vessel:* Requester intends to offer sportfishing and passenger sightseeing cruises.
- Geographic Region Including Base of Operations:* New Jersey. Base of Operations: Longport, NJ.
- Vessel Length and Type:* 29' cabin cruiser.

The complete application is available for review identified in the DOT docket as MARAD 2024-0031 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

##### *How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

##### *Where do I go to read public comments, and find supporting information?*

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2024-0031 or visit the Docket

Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to [SmallVessels@dot.gov](mailto:SmallVessels@dot.gov). Include in the email subject heading "Contains Confidential Commercial Information" or "Contains CCI" and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

#### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2024-04897 Filed 3-6-24; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2024-0028]

#### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: OHANA KA MUA (SAIL); Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 8, 2024.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2024-0028 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2024-0028 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD-2024-0028, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](https://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email: [patricia.hagerty@dot.gov](mailto:patricia.hagerty@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel OHANA KA MUA is:

- Intended Commercial Use of Vessel:* Requester intends to offer sailboat tours in the San Diego and Santa Barbara area.
- Geographic Region Including Base of Operations:* California. Base of Operations: Santa Barbara, CA.
- Vessel Length and Type:* 32.8' sail catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024-0028 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

#### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at <https://www.regulations.gov>, keyword search

MARAD–2024–0028 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

*Will my comments be made available to the public?*

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

*May I submit comments confidentially?*

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov*. Include in the email subject heading “Contains Confidential Commercial Information” or “Contains CCI” and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department’s FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

#### *Privacy Act*

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT’s compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2024–04898 Filed 3–6–24; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF THE TREASURY

### Bureau of the Fiscal Service

#### **Prompt Payment Interest Rate; Contract Disputes Act**

**AGENCY:** Bureau of the Fiscal Service, Treasury.

**ACTION:** Notice of prompt payment interest rate; Contract Disputes Act.

**SUMMARY:** For the period beginning January 1, 2024, and ending on June 30, 2024, the prompt payment interest rate is 4 $\frac{7}{8}$  per centum per annum.

**DATES:** Applicable January 1, 2024, to June 30, 2024.

**ADDRESSES:** Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW, Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov*.

#### **FOR FURTHER INFORMATION CONTACT:**

Thomas M. Burnum, E-Commerce Division, (202) 874–6430; or Thomas Kearns, Senior Counsel, Office of the Chief Counsel, (202) 874–7036.

**SUPPLEMENTARY INFORMATION:** An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). “The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.” 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning January 1, 2024, and ending on June 30, 2024, is 4 $\frac{7}{8}$  per centum per annum.

**Timothy E. Gribben,**

*Commissioner, Bureau of the Fiscal Service.*

[FR Doc. 2024–04833 Filed 3–6–24; 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) has removed from OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List) the names of persons whose property and interests in property had been blocked pursuant to Zimbabwe sanctions authorities.

**DATES:** See **SUPPLEMENTARY INFORMATION** for applicable date(s).

#### **FOR FURTHER INFORMATION CONTACT:**

OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for 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 (<https://www.treasury.gov/ofac>).

##### **Notice of OFAC Actions**

Effective March 4, 2024, Executive Order (E.O.) 13288 of March 6, 2003, “Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe,” E.O. 13391 of November 22, 2005, “Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe,” and E.O. 13469 of July 25, 2008, “Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe” (collectively “the Orders”) were revoked pursuant to the Executive Order on the “Termination of Emergency with Respect to the Situation in Zimbabwe.” As a result of the revocation of the Orders, effective March 4, 2024, the persons listed below are no longer subject to the blocking provisions of the Orders, and therefore were removed from the SDN List.

##### **Individuals**

1. CHARAMBA, George; DOB 04 Apr 1963; Passport AD001255 (Zimbabwe); Permanent Secretary, Zimbabwean Ministry of

Information and Publicity (individual) [ZIMBABWE].

2. CHARUMBIRA, Fortune Zefanaya; DOB 10 Jun 1962; Member of Parliament & Central Committee Member (individual) [ZIMBABWE].

3. CHIHURI, Augustine; DOB 10 Mar 1953; Passport AD000206 (Zimbabwe); Police Commissioner (individual) [ZIMBABWE].

4. CHINAMASA, Monica, 6B Honeybear Lane, Borrowdale, Zimbabwe; DOB circa 1950; Spouse of Patrick Chinamasa (individual) [ZIMBABWE].

5. CHINAMASA, Patrick, 6B Honeybear Lane, Borrowdale, Zimbabwe; DOB 25 Jan 1947; Minister of Justice, Legal and Parliamentary Affairs (individual) [ZIMBABWE].

6. CHIWESE, George; DOB 04 Jun 1953; Chairman of Zimbabwe Electoral Commission (individual) [ZIMBABWE].

7. CHIWEWE, Willard, Private Bag 7713, Causeway, Harare, Zimbabwe; DOB 19 Mar 1949; Masvingo Provincial Governor (individual) [ZIMBABWE].

8. GONO, Gideon; DOB 29 Nov 1959; Passport AD000854 (Zimbabwe); Governor of the Reserve Bank of Zimbabwe (individual) [ZIMBABWE].

9. KASUKUWERE, Savior, 78 Enterprise Road, Chisipite, Harare, Zimbabwe; DOB 23 Oct 1970; Deputy Minister for Youth Development and Employment Creation & Deputy Secretary for Youth Affairs (individual) [ZIMBABWE].

10. KECHIK, Mahmood Awang, Ampang Puteri Specialist Hospital, 1, Jalan Mamanda 9, Selangor Darul Ehsan 68000, Malaysia; DOB 22 Aug 1954; alt. nationality Malaysia; alt. citizen Malaysia; Dr. (individual) [ZIMBABWE].

11. MADE, Joseph Mtakwese; DOB 21 Nov 1954; Passport AN000144 (Zimbabwe); Minister of Agriculture (individual) [ZIMBABWE].

12. MADZONGWE, Edna; DOB 11 Jul 1945; Deputy Speaker of Parliament (individual) [ZIMBABWE].

13. MAGWIZI, Ngobile, Unwinsdale Dr., Corner Luna Road, Plot 134, Harare, Zimbabwe; DOB 22 Jan 1979; POB Gokwe, Zimbabwe; nationality Zimbabwe; citizen Zimbabwe; Gender Male; Passport FN557746 (Zimbabwe) expires 19 Feb 2028; National ID No. 6310449T26 (Zimbabwe); Project Coordinator Sakunda Holdings (individual) [ZIMBABWE] (Linked To: SAKUNDA HOLDINGS).

14. MALINGA, Joshua; DOB 28 Apr 1944; Deputy Secretary for Disabled and Disadvantaged (individual) [ZIMBABWE].

15. MASUKU, Angeline; DOB 14 Oct 1936; Matebeleland South Provincial Governor & Politburo Secretary for Gender and Culture (individual) [ZIMBABWE].

16. MATHEMA, Cain; DOB 28 Jan 1948; Bulawayo Provincial Governor (individual) [ZIMBABWE].

17. MATIBIRI, Innocent Tonderai; DOB 09 Oct 1968; Deputy Police Commissioner (individual) [ZIMBABWE].

18. MATONGA, Bright; DOB circa 1969; Deputy Minister of Information and Publicity (individual) [ZIMBABWE].

19. MATSHALAGA, Obert; DOB 21 Apr 1951; Deputy Minister of Foreign Affairs (individual) [ZIMBABWE].

20. MNANGAGWA, JR., Emmerson Dambudzo, 41 Dacomb Drive, Chisipite, Harare, Zimbabwe; DOB 20 Dec 1984; POB Harare, Zimbabwe; nationality Zimbabwe; citizen Zimbabwe; Gender Male; Passport AD005865 (Zimbabwe) expires 25 Feb 2023; National ID No. 632149596A67 (Zimbabwe) (individual) [ZIMBABWE] (Linked To: MNANGAGWA, Emmerson Dambudzo).

21. MOHADI, Kembo Campbell Dugishi; DOB 15 Nov 1949; Minister of Home Affairs (individual) [ZIMBABWE].

22. MOYO, Jonathan Nathaniel; DOB 12 Jan 1957; Passport AD000432 (Zimbabwe); Member of Parliament for Tsholotsho & Former Minister of Information and Publicity (individual) [ZIMBABWE].

23. MPOFU, Obert Moses; DOB 12 Oct 1951; Passport ZD001549 (Zimbabwe); Deputy Secretary for National Security (individual) [ZIMBABWE].

24. MUCHINGURI, Natasha, 2 Tender Road, Highlands, Harare, Zimbabwe; DOB circa 1994; Child of Oppah Muchinguri (individual) [ZIMBABWE].

25. MUCHINGURI, Tanya, 2 Tender Road, Highlands, Harare, Zimbabwe; DOB circa 1989; Child of Oppah Muchinguri (individual) [ZIMBABWE].

26. MUDEDE, Tobaiwa (a.k.a. "TONNETH"); DOB 22 Dec 1942; Registrar General (individual) [ZIMBABWE].

27. MUGABE, Grace; DOB 23 Jul 1965; Passport AD001159 (Zimbabwe); Spouse of Robert Mugabe (individual) [ZIMBABWE].

28. MUGABE, Robert Gabriel; DOB 21 Feb 1924; Passport AD002119 (Zimbabwe); President of the Republic of Zimbabwe (individual) [ZIMBABWE].

29. MUGABE, Leo (a.k.a. "CDE MUGABE"), 72 Green Groove Drive, Greendale, Harare, Zimbabwe; DOB 28 Feb 1957; alt. DOB 28 Aug 1962; MP for Makonde; Nephew of Robert MUGABE (individual) [ZIMBABWE].

30. MUJURU, Joyce Teurai Ropa; DOB 15 Apr 1955; Second Vice President (individual) [ZIMBABWE].

31. MUMBENGEGWI, Samuel Simbarashe Simbanenduku, 22 Stour Road, Vainona, Borrowdale, Harare, Zimbabwe; DOB 20 Jul 1945; Non-Constituency Member of Parliament (individual) [ZIMBABWE].

32. MUSHOHWE, Christopher Chindoti; DOB 06 Feb 1954; Minister of Transport and Communications (individual) [ZIMBABWE].

33. MUTASA, Didymus Noel Edwin; DOB 27 Jul 1935; Minister of State for National Security (individual) [ZIMBABWE].

34. MUTINHURI, Ambrose; DOB 22 Feb 1944; Passport AD000969 (Zimbabwe); Minister of Youth Development and Employment Creation (individual) [ZIMBABWE].

35. MUZENDA, Tsitsi; DOB 22 Aug 1922; Politburo Senior Committee Member (individual) [ZIMBABWE].

36. MUZONZINI, Elisha; DOB 24 Jun 1957; Passport AD000648 (Zimbabwe); Former Director of the Central Intelligence Organization (individual) [ZIMBABWE].

37. NCUBE, Abedinico; DOB 13 Mar 1954; Deputy Minister of Public Service, Labor and Social Welfare (individual) [ZIMBABWE].

38. NDLOVU, Richard; DOB 26 Jun 1942; Politburo Deputy Commissariat (individual) [ZIMBABWE].

39. NHEMA, Chenayaimoyo Dunstan Francis, 3 Farthinghill Road, Borrowdale, Harare, Zimbabwe; DOB 17 Apr 1959; Passport AD000966 (Zimbabwe); Minister of Environment and Tourism (individual) [ZIMBABWE].

40. NYAMBUYA, Michael Rueben; DOB 23 Jul 1955; Passport AN045019 (Zimbabwe); Minister of Energy and Power Development (individual) [ZIMBABWE].

41. PA, Sam (a.k.a. HUI, Samo; a.k.a. JINGHUA, Xu; a.k.a. KING, Sam; a.k.a. KYUNG-WHA, Tsui; a.k.a. LEUNG, Ghu Ka; a.k.a. MENEZES, Antonio Famtosonghiu Sampo); DOB 28 Feb 1958; nationality China; citizen Angola; alt. citizen United Kingdom; Passport C234897(0) (United Kingdom) (individual) [ZIMBABWE].

42. PARIRENYATWA, David Pagwese, P.O. Box 66222, Kopje, Harare, Zimbabwe; DOB 02 Aug 1950; Passport AD000899 (Zimbabwe); Minister of Health and Child Welfare (individual) [ZIMBABWE].

43. SANYATWE, Anselem Nhamo, Zimbabwe; Tanzania; DOB 21 Jan 1956; Gender Male; Passport 290060361Y34 (Zimbabwe) expires 23 Jun 2024 (individual) [ZIMBABWE].

44. SEKERAMAYI, Sidney Tigere, 31 Honey Bear Lane, Borrowdale, Harare, Zimbabwe; DOB 30 Mar 1944; Minister of Defense (individual) [ZIMBABWE].

45. SEKERAMAYI, Tsitsi Chihuri, 31 Honey Bear Lane, Borrowdale, Harare, Zimbabwe; DOB circa 1944; Spouse of Sydney Sekeramayi (individual) [ZIMBABWE].

46. SHAMU, Webster Kotiwani, 1 Uplands Close, Highlands, Zimbabwe; DOB 06 Jun 1945; Passport AN203141 (Zimbabwe) expires 15 Jan 2011; Minister of Policy Implementation (individual) [ZIMBABWE].

47. TOMANA, Johannes, Office of Attorney General, Private Bag 7714, Causeway, Harare, Zimbabwe; DOB 09 Sep 1967; National ID No. 50-036322F 50 (Zimbabwe); Attorney General (individual) [ZIMBABWE].

48. ZERENIE, Jimmy; nationality Singapore; Passport E0840452D (Singapore); Identification Number 264/2005 (Singapore) (individual) [ZIMBABWE].

49. ZHUWAO, Patrick; DOB 23 May 1967; Deputy Minister of Science and Technology (individual) [ZIMBABWE].

50. ZHUWAO, Beauty Lily; DOB 10 Jan 1965; Passport AN353466 (Zimbabwe); Spouse of Patrick Zhuwao (individual) [ZIMBABWE].

## Entities

1. ALLAN GRANGE FARM, Chegutu, Zimbabwe [ZIMBABWE].

2. AUCHENBURG FARM, Nyamandlovu, Zimbabwe [ZIMBABWE].

3. BAMBOO CREEK FARM, Shamva, Zimbabwe [ZIMBABWE].

4. BOURNE FARM, Chegutu, Zimbabwe [ZIMBABWE].

5. COLD COMFORT FARM TRUST CO-OPERATIVE, 7 Cowie Road, Tynwald, Harare, Zimbabwe; P.O. Box 6996, Harare, Zimbabwe [ZIMBABWE].

6. COMOIL (PVT) LTD, 2nd Floor, Travel Plaza, 29 Mazoe St., Box CY2234, Causeway, Harare, Zimbabwe; Block D, Emerald Hill Office P, Emerald Park, Harare, Zimbabwe [ZIMBABWE].

7. CORBURN 13 FARM, Chegutu, Zimbabwe [ZIMBABWE].

8. DIVINE HOMES (a.k.a. DIVINE HOMES (PVT) LTD), 31 Kensington, Highlands, Harare, Zimbabwe; Shop # 6, Hillside Shopping Center, Harare, Zimbabwe; 12 Meredith Drive, Eastlea, Harare, Zimbabwe [ZIMBABWE].

9. EIRIN FARM, Marondera, Zimbabwe [ZIMBABWE].

10. EYRIE FARM, Mashvingo, Zimbabwe [ZIMBABWE].

11. FAMBA SAFARIS, 4 Wayhill Lane, Umwisdale, Harare, Zimbabwe; P.O. Box CH273, Chisipite, Harare, Zimbabwe [ZIMBABWE].

12. FOUNTAIN FARM, Insiza, Zimbabwe [ZIMBABWE].

13. HARMONY FARM, Mazowe, Zimbabwe [ZIMBABWE].

14. JONGWE PRINTING AND PUBLISHING COMPANY (a.k.a. JONGWE PRINTING & PUBLISHING COMPANY (PVT) LTD; a.k.a. JONGWE PRINTING AND PUBLISHING CO; a.k.a. JONGWE PRINTING AND PUBLISHING COMPANY (PVT) LTD), 14 Austin Road, Coventry Road, Workington, Harare, Zimbabwe; Po Box 5988, Harare, Zimbabwe [ZIMBABWE].

15. LITTLE CONNEMARA 1 FARM, Nyanga, Zimbabwe [ZIMBABWE].

16. LOCHINVAR FARM, Mashvingo, Zimbabwe [ZIMBABWE].

17. LOT 3A OF DETE VALLEY FARM, Lupane, Zimbabwe [ZIMBABWE].

18. LOTHAIN FARM, Gutu, Zimbabwe [ZIMBABWE].

19. M & S SYNDICATE (PVT) LTD. (a.k.a. M AND S SYNDICATE (PVT) LTD.), First Floor, Victory House, 88 Robert Mugabe Road, Harare, Zimbabwe; P.O. Box 1275, Harare, Zimbabwe [ZIMBABWE].

20. MARANGE RESOURCES (PRIVATE) LIMITED (f.k.a. BLOCK WOOD MINING; a.k.a. MARANGE RESOURCES; a.k.a. MARANGE RESOURCES LTD), MMCZ Building, 90 Mutare Road, Harare, Zimbabwe; P.O. Box 4101, Harare, Zimbabwe [ZIMBABWE].

21. MARONDERA MAPLE LEAF FARM, Zimbabwe [ZIMBABWE].

22. MBADA DIAMONDS (PRIVATE) LIMITED (a.k.a. CONDURANGO; a.k.a. CONDURANGO INVESTMENTS PVT LTD; a.k.a. MBADA; a.k.a. MBADA DIAMOND MINING; a.k.a. MBADA DIAMONDS), New Office Park, Block C, Sam Levy's Village, Borrowdale, Harare, Zimbabwe; P.O. Box CY1342, Causeway, Harare, Zimbabwe [ZIMBABWE].

23. MINERALS MARKETING CORPORATION OF ZIMBABWE (a.k.a. MMCZ), 90 Mutare Road, Harare, Zimbabwe; P.O. Box 2628, Harare, Zimbabwe; Phone No. 263-4-486946; Fax No. 263-4-487261 [ZIMBABWE].

24. OLDHAM FARM, Chegutu, Zimbabwe [ZIMBABWE].

25. OSLEG (a.k.a. OPERATION SOVEREIGN LEGITIMACY; a.k.a. OSLEG (PVT.) LTD.; a.k.a. OSLEG ENTERPRISES; a.k.a. OSLEG MINES; a.k.a. OSLEG MINING AND EXPLORATION; a.k.a. OSLEG VENTURES), Lonhoro House, Union Avenue, Harare, Zimbabwe [ZIMBABWE].

26. PATTERSON FARM, Mazowe, Zimbabwe [ZIMBABWE].

27. PIMENTO FARM, Mashonaland, Zimbabwe [ZIMBABWE].

28. R/E OF AUDREY FARM, Zimbabwe [ZIMBABWE].

29. SINO ZIM DEVELOPMENT (PVT) LTD (a.k.a. SINO ZIM HOLDINGS (PVT) LTD; a.k.a. SINO ZIMBABWE COTTON HOLDINGS), 3rd Floor, Livingstone House, 48 Samora Machel Avenue, Harare, Zimbabwe; PO Box 7520, Harare, Zimbabwe; Telephone: (04) 710043 [ZIMBABWE].

30. SPRING SP FARM, Mashvingo, Zimbabwe [ZIMBABWE].

31. ULVA FARM, Marondera, Zimbabwe [ZIMBABWE].

32. UMGUZA BLOCK FARM, Umuza, Zimbabwe [ZIMBABWE].

33. ZIDCO HOLDINGS (a.k.a. ZIDCO HOLDINGS (PVT) LTD), 88 Robert Mugabe Road, Harare, Zimbabwe; Po Box 1275, Harare, Zimbabwe [ZIMBABWE].

34. ZIMBABWE DEFENCE INDUSTRIES (PVT) LTD., 10th Floor, Trustee House, 55 Samora Machel Avenue, Harare, Zimbabwe; P.O. Box 6597, Harare, Zimbabwe [ZIMBABWE].

35. ZIMBABWE IRON AND STEEL COMPANY (a.k.a. ZISCO; a.k.a. ZISCOSTEEL), Private Bag 2, Redcliff Zimbabwe, Zimbabwe; Phone No. 263-55-62401; Fax No. 263-55-68666 [ZIMBABWE].

36. ZIMBABWE MINING DEVELOPMENT CORPORATION (a.k.a. ZIMBABWE MINING DEVELOPMENT CORP.; a.k.a. ZMDC), MMCZ Building, 90 Mutare Rd., Harare, Zimbabwe; P.O. Box 4101, Harare, Zimbabwe; Phone No. 263-4-487014; Fax No. 263-4-487022 [ZIMBABWE].

Dated: March 4, 2024.

**Bradley T. Smith,**

*Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

[FR Doc. 2024-04871 Filed 3-6-24; 8:45 am]

**BILLING CODE 4810-AL-P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

### FOR FURTHER INFORMATION CONTACT:

OFAC: Bradley Smith, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for 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 (<https://www.treasury.gov/ofac>).

#### Notice of OFAC Actions

On March 4, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

#### Individuals

1. MNANGAGWA, Auxillia, Zimbabwe; DOB 21 Mar 1963; POB Mazowe, Zimbabwe; nationality Zimbabwe; Gender Female; Passport ED000003 (Zimbabwe) expires 27 Feb 2032; National ID No. 63545988X15 (Zimbabwe) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of Executive Order 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) (E.O. 13818 or the "Order") for being a foreign person who is a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

2. CHIMUKA, Obey, 25 Northolt Bluffhill, Harare, Zimbabwe; DOB 15 Jan 1975; POB Makoni, Zimbabwe; nationality Zimbabwe; Gender Male; Passport EN899508 (Zimbabwe) expires 15 Mar 2026; National ID No. 58158115R42 (Zimbabwe) (individual) [GLOMAG] (Linked To: FOSSIL CONTRACTING; Linked To: TAGWIREI, Kudakwashe Regimond).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Kudakwashe Regimond TAGWIREI, a person whose property and interests in property are blocked pursuant to the Order.

3. MPUNGA, Sandra, 4 Luna Road, Borrowdale, Harare, Zimbabwe; DOB 19 Nov 1971; POB Mutasa, Zimbabwe; nationality Zimbabwe; Gender Female; Passport

DN056388 (Zimbabwe) expires 16 Oct 2022; National ID No. 63846615T50 (Zimbabwe) (individual) [GLOMAG] (Linked To: SAKUNDA HOLDINGS).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, SAKUNDA HOLDINGS, a person whose property and interests in property are blocked pursuant to the Order.

4. TAGWIREI, Kudakwashe Regimond (a.k.a. TAGWIREI, Kuda), 4 Luna Road, Borrowdale, Harare, Zimbabwe; DOB 12 Feb 1969; POB Shurugwi, Midlands, Zimbabwe; nationality Zimbabwe; alt. nationality South Africa; Gender Male; Passport FN920256 (Zimbabwe) issued 02 Jul 2019 expires 01 Jul 2029; National ID No. 29135894Z66 (Zimbabwe) (individual) [GLOMAG].

Designated pursuant to section 1(a)(iii)(A)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for having materially assisted, sponsored or provided financial, material, or technological support for, or goods or services to or in support of corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery, and the transfer or the facilitation of the transfer of the proceeds of corruption.

5. MNANGAGWA, Emmerson Dambudzo (a.k.a. MNANGAGWA, Emmerson; a.k.a. "CROCODILE"), Munhumutapa Building, Corner of Second and Samora Machel Avenue, Harare, Zimbabwe; 1 Chancellor Avenue, Harare, Zimbabwe; DOB 15 Sep 1946; alt. DOB 15 Sep 1942; POB Zvishavane, Zimbabwe; nationality Zimbabwe; Gender Male; Passport AD005831 (Zimbabwe) issued 11 Jan 2018 expires 10 Jan 2028; alt. Passport AD006846 (Zimbabwe) issued 04 Feb 2020 expires 03 Feb 2025; National ID No. 63450183P67 (Zimbabwe); President of Zimbabwe (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is or has been a leader or official of an entity, including any

government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

6. CHIWENGA, Constantino Guveya (a.k.a. CHIWENGA, Constantino Gureya; a.k.a. CHIWENGA, Constantino; a.k.a. CHIWENGA, Constantino D.N.G.), Zimbabwe; DOB 25 Aug 1956; POB Zimbabwe; nationality Zimbabwe; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is or has been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

7. MATANGA, Tandabantu Godwin (a.k.a. MATANGA, Godwin), Harare, Zimbabwe; DOB 05 Feb 1962; POB Chipinge, Zimbabwe; nationality Zimbabwe; Gender Male; National ID No. 7512877N13 (Zimbabwe) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is or has been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

8. MUCHINGURI, Oppah Charm Zvipange (a.k.a. MUCHINGURI KASHIRI, Oppah Chamu Zvipange; a.k.a. MUCHINGURI, Oppah; a.k.a. MUCHINGURI, Oppah Chamu Zvipange), 2 Tedder Road, Greendale, Harare 263, Zimbabwe; DOB 14 Dec 1958; POB Mutare, Zimbabwe; nationality Zimbabwe; Gender Female; National ID No. 63741411R50 (Zimbabwe) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is or has been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

9. MUTAMBA, Stephen, 192 Baines Ave., Harare, Harare, Zimbabwe; DOB 23 Oct 1961; POB Harare, Zimbabwe; nationality Zimbabwe; Gender Male; Passport FN460001 (Zimbabwe); National ID No. 58004069A83 (Zimbabwe) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is or has been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

10. NCUBE, Owen, Zimbabwe; DOB 17 Apr 1968; nationality Zimbabwe; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is responsible for or complicit in, or who has directly or indirectly engaged in, serious human rights abuse.

11. TAPFUMANEYI, Asher Walter, 568 Eagles Place, Harare, Zimbabwe; DOB 19 Nov 1959; POB Wedza, Zimbabwe; nationality Zimbabwe; Gender Male; Passport AD007230 (Zimbabwe); National ID No. 63453849Z80 (Zimbabwe) (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(C)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being a foreign person who is or has been a leader or official of an entity, including any government entity, that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader's or official's tenure.

## Entities

1. FOSSIL AGRO (a.k.a. FOSSIL AGRO PRIVATE LIMITED), 42 McChlery Avenue, Eastlea, Harare, Zimbabwe; 521 Access Road, Msasa Industrial Area, Harare, Zimbabwe; Organization Established Date 2016; Organization Type: Support activities for crop production; Target Type Private Company [GLOMAG] (Linked To: SAKUNDA HOLDINGS).

Designated pursuant to section 1(a)(iii)(A)(2) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for having materially assisted, sponsored or provided financial, material, or technological support for, or goods or services to or in support of SAKUNDA HOLDINGS, a person whose property and interests in property are blocked pursuant to the Order.

2. FOSSIL CONTRACTING (a.k.a. FOSSIL CONTRACTING PRIVATE LIMITED), 5 Loreley Crescent, Harare, Zimbabwe; 5, Loreley Close, Beverly, Msasa, Harare, Zimbabwe; website <https://www.fossilcontracting.org/>; Organization Established Date 01 Jan 2010; Organization Type: Construction of other civil engineering projects; Business Number 200114146 (Zimbabwe); Registration Number 5268/2011 (Zimbabwe) [GLOMAG].

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Obey CHIMUKA, a person whose property and interests in property are blocked pursuant to the Order.

3. SAKUNDA HOLDINGS (a.k.a. SAKUNDA HOLDINGS PRIVATE LIMITED), Samora Machel Avenue No. 45 (between J. Nyerere Way and L. Takawira Street), 4th,



15th, 16th, and 17th Floors, Century Towers, Harare, Zimbabwe; Number 5 Beit Road, Milton Park, Harare, Zimbabwe; Organization Established Date 01 Jan 2005; alt. Organization Established Date 28 Nov 2005; Organization Type: Activities of holding companies; Business Registration Number 19561/2005 (Zimbabwe) [GLOMAG] (Linked To: TAGWIREI, Kudakwashe Regimond).

Designated pursuant to section 1(a)(iii)(A)(1) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for having materially assisted, sponsored or provided financial, material, or technological support for, or goods or services to or in support of corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery, and the transfer or the facilitation of the transfer of the proceeds of corruption.

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839 (Dec. 26, 2017) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Obey CHIMUKA, a person whose property and interests in property are blocked pursuant to the Order.

Dated: March 4, 2024.

**Bradley Smith,**

*Director, Office of Foreign Assets Control,  
U.S. Department of the Treasury.*

[FR Doc. 2024-04893 Filed 3-6-24; 8:45 am]

**BILLING CODE 4810-AL-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Salary Reduction Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden associated with the salary reduction simplified employee

pension—individual retirement accounts contribution agreement.

**DATES:** Written comments should be received on or before May 6, 2024 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [pra.comments@irs.gov](mailto:pra.comments@irs.gov). Please include, "OMB Number: 1545–1012—Public Comment Request Notice" in the Subject line.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Salary Reduction Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.

*OMB Number:* 1545–1012.

*Document Number:* 5305A SEP.

*Abstract:* Form 5305A–SEP is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS, but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions made to the SEP.

*Current Actions:* There are no changes to the burden previously approved by OMB. This request is to extend the current approval for another 3 years.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business and other for-profit organizations.

*Estimated Number of Respondents:* 100,000.

*Estimated Time per Respondent:* 9 hrs., 43 min.

*Estimated Total Annual Burden Hours:* 972,000.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are

confidential, as required by 26 U.S.C. 6103.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 4, 2024.

**Ronald J. Durbala,**  
*IRS Tax Analyst.*

[FR Doc. 2024-04866 Filed 3-6-24; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### **Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to Mortgage Credit Certificates (MCCs)**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the application process for determination of employee stock ownership plans.

**DATES:** Written comments should be received on or before May 6, 2024 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [pra.comments@irs.gov](mailto:pra.comments@irs.gov). Please include, “OMB Number: 1545–0922—Public Comment Request Notice” in the Subject line.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Mortgage Credit Certificates (MCCs).

*OMB Number:* 1545–0922.

*Regulation Project Number:* Form 8329 and Form 8330.

*Abstract:* Mortgage Credit Certificates provide qualified holders of the certificates with a credit against income tax liability. In general, an Issuer elects to establish a mortgage credit certificate program in lieu of issuing qualified mortgage revenue bonds. Section 25 of the Code permits states and political subdivisions to elect to issue Mortgage Credit Certificates in lieu of qualified mortgage revenue bonds. Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to provide the IRS with information on the issuance of mortgage credit certificates (MCCs) authorized under Internal Revenue Code section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

*Current Actions:* There is no change to the burden previously approved.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* Form 8329—10,000; Form 8330—2,000.

*Estimated Time per Respondent:* Form 8329—5 hrs. 53 min.; Form 8330—7 hrs. 28 min.

*Estimated Total Annual Burden Hours:* Form 8329—58,800; Form 8330—14,920. The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be

retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 4, 2024.

**Ronald J. Durbala,**

*IRS Tax Analyst.*

[FR Doc. 2024–04839 Filed 3–6–24; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Treaty-Based Return Position Disclosure

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction

Act of 1995. Currently, the IRS is soliciting comments concerning treaty-based return position disclosure.

**DATES:** Written comments should be received on or before May 6, 2024 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [pra.comments@irs.gov](mailto:pra.comments@irs.gov). Please include, “OMB Number: 1545–1354—Public Comment Request Notice” in the Subject line.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Treaty-Based Return Position Disclosure.

*OMB Number:* 1545–1354.

*Document Number:* 8833.

*Abstract:* Revenue Procedure 2010–19 provides guidance for individuals who emigrate from Canada and wish to make an election for U.S. federal income tax purposes. Form 8833 is used by taxpayers to make the treaty-based return position disclosure required by section 6114.

*Current Actions:* There are no changes to the burden previously approved by OMB. This request is to extend the current approval for another 3 years.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business and other for-profit organizations.

*Estimated Number of Respondents:* 4,100.

*Estimated Time per Respondent:* 6 hrs, 16 min.

*Estimated Total Annual Burden Hours:* 25,740.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is

particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 4, 2024.

**Ronald J. Durbala,**

*IRS Tax Analyst.*

[FR Doc. 2024-04835 Filed 3-6-24; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Mandatory Survey of Foreign-Residents' Holdings of U.S. Securities

**AGENCY:** Departmental Offices, Department of the Treasury.

**ACTION:** Notice of reporting requirements.

**SUMMARY:** By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory Survey of Foreign-Residents' Holdings of U.S. Securities as of June 30, 2024. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. Additional copies of the reporting forms SHL (2024) and instructions may be printed from the internet at: <https://home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions/forms-shl>.

#### SUPPLEMENTARY INFORMATION:

**Definition:** A U.S. person is any individual, branch, partnership,

associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), or any government (including a foreign government, the United States Government, a State or local government, or any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), residing in the United States or subject to the jurisdiction of the United States.

**Who Must Report:** This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 *et seq.*) and in accordance with 31 CFR 129. The following U.S. persons must report on this survey:

(1) U.S. persons who manage the safekeeping of U.S. securities (as specified below) for foreign persons. These U.S. persons, who include the affiliates in the United States of foreign entities, and are henceforth referred to as U.S. custodians, must report on this survey if the total market value of the U.S. securities whose safekeeping they manage on behalf of foreign persons—aggregated over all accounts and for all U.S. branches and affiliates of their firm—is \$200 million or more as of June 30, 2024.

(2) U.S. persons who issue securities, if the total market value of their securities owned directly by foreign persons—aggregated over all securities issued by all U.S. subsidiaries and affiliates of the firm, including investment companies, trusts, and other legal entities created by the firm—is \$200 million or more as of June 30, 2024. U.S. issuers should report only foreign holdings of their securities that are directly held for foreign residents, *i.e.*, where no U.S.-resident custodian or central securities depository is used. Securities held by U.S. nominees, such as bank or broker custody departments, should be considered to be U.S.-held securities as far as the issuer is concerned.

(3) U.S. persons who receive a letter from the Federal Reserve Bank of New York that requires the recipient of the letter to file Schedule 1, even if the recipient is under the exemption level of \$200 million and need only report “exempt” on Schedule 1.

**What To Report:** This report will collect information on foreign resident holdings of U.S. securities, including equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

**How To Report:** Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, may be obtained at the website address given above in the Summary, or by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720-6300 or (646) 720-6300, email: [SHLA.help@ny.frb.org](mailto:SHLA.help@ny.frb.org). The mailing address is: Federal Reserve Bank of New York, Data and Statistics Function, 6th Floor, 33 Liberty Street, New York, NY 10045-0001. Inquiries can also be made to the Federal Reserve Board of Governors, at (202) 452-3476, or to Dwight Wolkow, at (202) 622-1276, or by email: [comments2TIC@do.treas.gov](mailto:comments2TIC@do.treas.gov).

**When To Report:** Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by August 30, 2024.

**Paperwork Reduction Act Notice:** This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505-0123. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 321 hours per report for custodians of securities (the burden varies widely and we estimate 486 hours for the largest custodians), 61 hours per report for issuers of securities that have data to report and are not custodians (we estimate 110 hours for the largest issuers), and 17 hours per report for those who file as exempt in a benchmark survey. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Office of International Affairs, Attention: Administrator, International Portfolio Investment Data Reporting Systems, Room 1050, Washington, DC 20220, or by email: [comments2TIC@do.treas.gov](mailto:comments2TIC@do.treas.gov), and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

#### Dwight Wolkow,

*Administrator, International Portfolio Investment Data Reporting Systems.*

[FR Doc. 2024-04817 Filed 3-6-24; 8:45 am]

**BILLING CODE 4810-AK-P**



# FEDERAL REGISTER

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## Part II

### Department of the Interior

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Fish and Wildlife Service

50 Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical  
Habitat for Endangered Florida Bonneted Bat; Final Rule

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS–R4–ES–2019–0106;  
FXES1111090FEDR–245–FF09E21000]

RIN 1018–BE10

**Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Endangered Florida Bonneted Bat**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the Florida bonneted bat (*Eumops floridanus*) under the Endangered Species Act of 1973 (Act), as amended. In total, approximately 1,160,625 acres (469,688 hectares) in 13 Florida counties fall within the boundaries of the critical habitat designation. This rule extends the Act's protections to this species' critical habitat.

**DATES:** This rule is effective April 8, 2024.

**ADDRESSES:** This final rule is available on the internet at <https://www.regulations.gov> and <https://www.fws.gov/species/florida-bonneted-bat-eumops-floridanus>. Comments and materials we received are available for public inspection at <https://www.regulations.gov> at Docket No. FWS–R4–ES–2019–0106.

*Availability of supporting materials:* Supporting materials we used in preparing this rule are available at <https://www.regulations.gov> at Docket No. FWS–R4–ES–2019–0106. The coordinates or plot points or both from which the maps are generated are included in the decision file for this critical habitat designation and are available at <https://www.regulations.gov> at Docket No. FWS–R4–ES–2019–0106, at <https://www.fws.gov/species/florida-bonneted-bat-eumops-floridanus>, and at the Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**, below).

**FOR FURTHER INFORMATION CONTACT:** Lourdes Mena, Classification and Recovery Division Manager, U.S. Fish and Wildlife Service, Florida Ecological Services Field Office, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256; telephone (352) 749–2462. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY,

TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:****Executive Summary**

*Why we need to publish a rule.* Under the Act, when we determine that any species is an endangered or threatened species, we are required to designate critical habitat, to the maximum extent prudent and determinable. Designations of critical habitat can only be completed by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

*What this document does.* This rule designates critical habitat for the Florida bonneted bat. The designation includes approximately 1,160,625 acres (ac) (469,688 hectares (ha)) in portions of 13 Florida counties.

*The basis for our action.* Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

**Previous Federal Actions**

Please refer to the Florida bonneted bat's final listing rule (78 FR 61004; October 2, 2013), proposed critical habitat rule (85 FR 35510; June 10, 2020), and revised proposed critical habitat rule (87 FR 71466; November 22, 2022) for a detailed description of previous Federal actions concerning this species.

**Peer Review**

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act,

we solicited independent scientific review of the information contained in the proposed critical habitat rule (85 FR 35510; June 10, 2020). We sent the proposed rule to six independent peer reviewers and received two responses. Following the public comment period for the revised proposed rule (87 FR 71466; November 22, 2022), we sent the revised proposed rule to five independent peer reviewers and received one response. The peer reviews can be found at <https://www.regulations.gov>. We incorporated the results of these reviews, as appropriate, into this final rule. A summary of the peer review comments and our responses can be found under Summary of Comments and Recommendations, below.

**Summary of Changes From the Proposed Rule**

After considering the comments we received during the public comment period (refer to Summary of Comments and Recommendations, below) and new information published or obtained since the revised proposed rule was published (87 FR 71466; November 22, 2022), we made changes to this final critical habitat designation, as described below. No changes were made to our economic analysis after considering public comments on the draft document; thus, we finalized the economic analysis of the designation. We added the following supporting documents at <https://www.regulations.gov> under Docket No. FWS–R4–ES–2019–0106: (1) A table entitled, “Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation,” (2) coordinates from which the final critical habitat maps are generated, (3) a list of literature cited in this final rule, (4) the peer reviews of the revised proposed rule and the accompanying conflict of interest forms, and (5) a table of requested additions to the proposed and revised proposed critical habitat designations and the outcome of our evaluation for each area.

In this rule, we make many small, nonsubstantive changes and corrections (e.g., updating the discussion under Background, below, in response to comments and making minor clarifications) that do not affect the designation. We also make several minor updates to the biological information for and habitat use by the Florida bonneted bat based on new and updated information. Specifically, we update measurements of roost characteristics, add detail on foraging areas and insects associated with agricultural crops, add information about the Florida bonneted bat's use of

seasonally inundated forested wetlands, and add new information about the species' breeding and resource defense. In addition, we update citations supporting existing statements as needed. The following items describe changes made between the revised proposed rule (87 FR 71466; November 22, 2022) and this final rule:

(1) In *Cover or Shelter*, under Physical or Biological Features Essential to the Conservation of the Species, below, we update roost habitat characteristics and roost measurements, including both averages and ranges in our description, and we clarify the role of artificial roosts in Florida bonneted bat habitat.

(2) In *Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*, under Physical or Biological Features Essential to the Conservation of the Species, below, we add information on the influence of artificial lighting on Florida bonneted bat habitat.

(3) In both the *Summary of Essential Physical or Biological Features*, under Physical or Biological Features Essential to the Conservation of the Species, and in the rule portion of this document, below, we modified the first and second physical or biological features essential to the conservation of the Florida bonneted bat to include sufficient darkness as a habitat feature, and we modified the first physical or biological feature to qualitatively characterize roosting habitat.

(4) Under Special Management Considerations or Protection, below, we update estimates of the critical habitat area to be affected by sea level rise or converted to developed land by 2070 based on the areas included within this final critical habitat designation, and we add a discussion under the heading *Ecological Light Pollution* to align with the changes we make to the physical or biological features noted in (2) and (3), above, regarding artificial lighting and sufficient darkness.

(5) Under Final Critical Habitat Designation, below, we adjust the boundaries of Subunits 3B, 9M, 9N, and 9O to include a total of an additional 1,179 ac (477 ha). Subunit 3B now includes an additional 1,118 ac (452 ha) of lands primarily owned by Lee County, based on a peer review comment and to ensure we are designating the specific areas that contain the physical or biological features essential to the conservation of the Florida bonneted bat. Subunit 9M includes an additional 10 ac (4 ha) of lands owned by Miami-Dade County, based on a request from Miami-Dade County and new information indicating these areas have the essential physical

or biological features. Subunit 9N includes an additional 10 ac (4 ha) of lands primarily owned by the State of Florida and managed by Miami-Dade County, based on a request from Miami-Dade County and new information indicating this area also contains the essential physical or biological features. Subunit 9O includes an additional 42 ac (17 ha) of lands primarily owned by Miami-Dade County (38 ac (15 ha)) and the U.S. Coast Guard (4 ac (2 ha)), based on new information indicating this area also contains the essential physical or biological features.

(6) Under *Application of the "Adverse Modification" Standard*, below, we add excessive alteration of natural lighting as an action that would significantly reduce habitat suitability or impact the prey base for the Florida bonneted bat in the list of activities that we may, during a consultation under section 7(a)(2) of the Act (16 U.S.C. 1531 *et seq.*), consider likely to destroy or adversely modify critical habitat.

(7) We exclude the Coral Reef Commons Habitat Conservation Plan (HCP) on-site preserve and off-site mitigation areas in Subunit 9O from this final designation pursuant to section 4(b)(2) of the Act based on the provisions of the HCP. This amounts to a decrease of approximately 104 ac (42 ha) from the critical habitat areas we proposed.

(8) We exclude Tribal lands of the Seminole Tribe of Florida in Unit 6. This amounts to a decrease of approximately 14,455 ac (5,850 ha) from the critical habitat areas we proposed.

(9) We exclude Tribal lands of the Miccosukee Tribe of Florida in Subunit 1B. This amounts to a decrease of approximately 1.25 ac (0.5 ha) from the critical habitat areas we proposed.

(10) We apply updated information on parcel boundaries and parcel ownership that we obtained from counties, which changed some of the areas of critical habitat by land ownership category from what we presented in table 1 in the revised proposed rule (87 FR 71466, November 22, 2022, p. 71475; see table 1 under Final Critical Habitat Designation, below, for comparison). However, the total area of critical habitat in Units 2, 4, 5, 7, and 8 are the same as we proposed. The total area has only substantially changed for those units where exclusions or boundary adjustments were applied, as noted above in (5), (7), (8), and (9).

(11) Because of the above boundary adjustments and exclusions, in this rule, we revise the index map and maps for Units 1, 3, 6, and 9A–9O in the rule portion of this document.

Beyond those changes, this critical habitat designation is unchanged from what we proposed on November 22, 2022 (87 FR 71466).

### Summary of Comments and Recommendations

We requested that all interested parties submit written comments on the proposed critical habitat rule (85 FR 35510; June 10, 2020) and on the revised proposed critical habitat rule (87 FR 71466; November 22, 2022) for the Florida bonneted bat. The comment period for the proposed critical habitat rule closed on August 10, 2020; the comment period for the revised proposed critical habitat rule closed on January 23, 2023.

For the proposed critical habitat rule (85 FR 35510; June 10, 2020), we contacted appropriate Federal and State agencies, Tribes, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. For the revised proposed critical habitat rule (87 FR 71466; November 22, 2022), we again contacted appropriate Federal and State agencies, Tribes, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. In the November 22, 2022, revised proposed rule, we stated that any comments we received in response to the June 10, 2020, proposed rule need not be resubmitted as they would be fully considered in this final rule.

For the June 10, 2020, proposed rule, newspaper notices inviting general public comment were published in the Orlando Sentinel, Ft. Myers News-Press, Sarasota Herald Tribune, and Miami Herald newspapers on June 9, 2020. For the November 22, 2022, revised proposed rule, a newspaper notice inviting general public comment was published in the Miami Herald newspaper on November 28, 2022.

For the June 10, 2020, proposed rule, we did not receive any requests for a public hearing, but we held public informational webinars on June 16 and 17, 2020. For the November 22, 2022, revised proposed rule, we did not receive any requests for a public hearing.

Because of the comprehensive changes we made to the June 10, 2020, proposed rule in the November 22, 2022, revised proposed rule, some substantive comments and information we received during the comment period on the June 10, 2020, proposed rule no longer apply, and we do not address them below. All other substantive information we received during both comment periods has either been

incorporated directly into this final determination or is addressed below.

During the comment period on the June 10, 2020, proposed rule, we received approximately 1,900 written comment letters on the proposed critical habitat designation or the draft economic analysis (DEA) and supplemental memo (IEc 2020a, b, entire). During the comment period on the November 22, 2022, revised proposed rule, we received an additional 41 comment letters on the revised proposed critical habitat designation or the DEA and supplemental memo (IEc 2021a, b, entire). During the comment period on the November 22, 2022, revised proposed rule, we also received four requests for exclusion of areas that were not identified as being considered for exclusion in the proposed rule or the revised proposed rule. We reviewed each exclusion request, whether received in response to the proposed or revised proposed rule, to determine if the requester provided information or a reasoned rationale to initiate an analysis of exclusion or support an exclusion (see Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (81 FR 7226; February 11, 2016), hereafter referred to as our 2016 section 4(b)(2) policy). All substantive information provided to us during both comment periods has been incorporated directly into this final determination or, in the case of substantive information regarding the DEA received during the comment period on the June 10, 2020, proposed rule, was used to revise the economic analysis and supplemental memo (IEc 2021a, b, entire) between the June 10, 2020, proposed and November 22, 2022, revised proposed rules.

#### *Peer Reviewer Comments*

As discussed in Peer Review above, we received comments from two peer reviewers on the June 10, 2020, proposed rule and one peer reviewer on the November 22, 2022, revised proposed rule. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the Florida bonneted bat and its habitat use and needs. The peer reviewers provided critiques of our methods but generally concurred with our designation of critical habitat and conclusions and provided additional information, clarifications, and suggestions to improve the designation. Our revised proposed critical habitat rule (87 FR 71466; November 22, 2022) was developed in part to address some of the critiques and information raised by the peer reviewers in 2020. The additional

details and information we received or that were raised by the peer reviewers have been incorporated into this final rule, as appropriate. Peer review comments are addressed in the following summary.

*(1) Comment:* In response to the June 10, 2020, proposed critical habitat rule (85 FR 35510) and the November 22, 2022, revised proposed critical habitat rule (87 FR 71466), we received peer review and public comments requesting that we consider adding 71 areas to the critical habitat designation for the Florida bonneted bat. Specific additions were recommended with supporting information, including information regarding habitat and evidence of use by the Florida bonneted bat. Commenters also stated their views that the critical habitat areas included in the June 10, 2020, proposed and November 22, 2022, revised proposed designations were not sufficient to ensure long-term conservation of the species in light of future threats, such as climate change and urbanization, and that unoccupied habitat should be reexamined for inclusion.

*Our Response:* In preparing this final designation, we evaluated all requests for the addition of specified areas (see “Areas Requested for Addition to Florida Bonneted Bat Critical Habitat” under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). In the November 22, 2022, revised proposed designation, we included 24 additions requested in response to the June 10, 2020, proposed rule that resulted from our development of new critical habitat criteria and analysis of physical or biological features that are essential to the Florida bonneted bat, which guided a new delineation of revised critical habitat units. Of those areas not included in the November 22, 2022, revised proposed rule, we determined that four meet the definition of critical habitat for the Florida bonneted bat, and we include these areas in this final designation as reflected in boundary changes made to four subunits (Subunits 3B, 9M, 9N, and 9O; see Final Critical Habitat Designation, below). The remaining areas, including identified golf courses, parks, and heavily fragmented areas, are not included in this final designation. While we agree that such areas can be important to the species and are considered in recovery and regulatory processes, our evaluation indicated the identified areas did not meet our criteria for designating critical habitat.

A critical habitat designation does not signal that habitat outside the designated area is unimportant or

should not be managed or conserved for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) section 9 of the Act, which prohibits taking any individual of the species, including taking caused by actions that affect habitat; and (3) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species. Thus, Federal agencies must consult with the Service even if actions they authorize, fund or carry out are conducted outside of designated critical habitat if those activities may affect listed species.

In accordance with section 3(5)(A) of the Act, we are designating critical habitat in specific areas within the geographical area occupied by the species at the time of listing that contain the physical or biological features essential to the conservation of the species and which may require special management considerations or protection. We acknowledge that a variety of roosting and foraging habitats are important to the conservation of the Florida bonneted bat. However, a critical habitat designation identifies the habitat areas essential to the species; it is not necessary to include in the designation all areas that can be occupied by the species or where the species has been detected. We may designate critical habitat that is outside the geographical area occupied by the species if we determine it to be essential for the conservation of the species. Accordingly, during the development of our November 22, 2022, revised proposed rule, we evaluated areas both within and outside the species’ current range to identify those areas that have the essential physical or biological features we established for inclusion in critical habitat. We then evaluated whether the areas considered to be occupied are sufficient to ensure conservation of the species. Based on our determination that the occupied units included in the November 22, 2022, revised proposed rule represent the appropriate quantity and spatial arrangement essential to the species, we determined unoccupied areas are not essential for the conservation of the Florida bonneted bat. However, this designation does include areas in the northern extremes of the species’



current range that, while currently occupied, may become of much higher value to the species as the climate changes (see description of Unit 1 under Final Critical Habitat Designation, below).

(2) *Comment:* Peer reviewers recommended acknowledging the important role artificial roosts play in Florida bonneted bat conservation and recovery, and they suggested including artificial roosts (e.g., bat houses, bat boxes) in the species' essential physical or biological features and our habitat analysis.

*Our Response:* Physical or biological features are features that support the species' life-history needs, such as reproduction. Roosting habitat is essential to Florida bonneted bats to provide shelter and support reproduction, socialization, and other natural behaviors. While artificial roosts can provide alternative, long-term, and hurricane-resilient roosting habitat for the species where roosting habitat is limited, they are an imperfect surrogate for natural roosting habitat and are not on their own a habitat feature essential for the species' survival (see *Cover or Shelter*, below, for additional details). It is also for this reason that we do not include roost measurements of artificial or supplemental roosts in our description of roosting habitat, although available locations of artificial roosts are included in the presence dataset used for our habitat analysis (see "Florida Bonneted Bat Habitat Analysis" under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>).

Additionally, while our knowledge regarding how to design bat houses with conservation benefits for Florida bonneted bats is improving, many designs still present thermal issues to bat colonies and can be harmful (Crawford and O'Keefe 2021, entire; Bat Conservation International 2022, pp. 10–11). Also, bat houses often require human intervention to repair and replace as they deteriorate, especially in Florida, reducing the potential for these structures to provide long-term conservation benefits for Florida bonneted bats. We appreciate the efforts of our partners to provide safe supplemental roosts for the Florida bonneted bat, and we agree that, with proper placement, design, and maintenance, supplemental roosts play an important role in the conservation of the species. While not intentionally included or excluded, all bat houses for Florida bonneted bats at Fred C. Babcock-Cecil M. Webb Wildlife Management Area (Babcock-Webb WMA) and the majority (80 percent) of

known bat houses for Florida bonneted bats in Miami-Dade County are located within the final critical habitat designation. Additionally, as noted above, areas including artificial roosts remain subject to regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species.

(3) *Comment:* In response to the June 10, 2020, proposed and November 22, 2022, revised proposed rules, peer reviewers and public commenters stated their views that additional discussion and consideration of urban areas were needed, and they suggested including some or all urban areas within the species' range (including golf courses, parks, urban ponds, and canals, especially within Miami-Dade County) in the critical habitat designation. Commenters voiced that the addition of these areas is needed to allow the Florida bonneted bat to forage in fragmented landscapes. Commenters also questioned why the proposed and revised proposed rules include negative associations with respect to urban areas and Florida bonneted bat habitat, when a significant portion of the overall population uses an urban landscape; commenters suggested that suburban and urban areas be modeled at a different, smaller scale than areas outside the urban matrix and/or be considered using different criteria for inclusion in the critical habitat designation.

*Our Response:* To identify specific areas that may qualify as critical habitat for the Florida bonneted bat, in accordance with 50 CFR 424.12(b), we included the following considerations in the process: (1) Identifying the geographical area occupied by the species at the time of listing; (2) identifying physical or biological habitat features essential to the conservation of the species; (3) identifying the specific areas within the geographical area occupied by the species that contain one or more of the physical or biological features essential to the conservation of the species; (4) determining which of these essential features may require special management considerations or protection; and (5) identifying specific areas outside the geographical area occupied by the species that are essential for the species' conservation. Our evaluation and conclusions are described in detail below under the following headings: Physical or Biological Features Essential to the Conservation of the Species, Special Management Considerations or

Protection, and Conservation Strategy and Selection Criteria Used to Identify Critical Habitat.

In development of the November 22, 2022, revised proposed designation, we developed revised physical or biological features based on new information as well as peer review and public comments on the June 10, 2020, proposed rule. As a result, habitat within the Miami-Dade urban matrix was evaluated, and those areas that contain the physical or biological features essential to the conservation of the species were included in our revised proposed designation (i.e., Unit 9). However, while natural areas within urban landscapes are used by Florida bonneted bats, increased urbanization is considered a threat to the species as these areas can have limited resources, such as a lack of roost trees, and increased conflicts with humans. Therefore, despite their use by the species and their local importance, many urban areas have a lower conservation value to the species as a whole and do not contain the physical or biological features essential to the conservation of the Florida bonneted bat.

Results of our habitat analysis (see "Florida Bonneted Bat Habitat Analysis" under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>) did not specifically inform our consideration of urban areas as part of our revised proposed critical habitat methodology or delineation. The MaxEnt model that we used in our analysis did not identify the amount of urbanization as a habitat-related variable having strong influence on the probability of Florida bonneted bat occurrence. Thus, no urbanization covariate was incorporated in our model output or analysis results, and we have no model-related results to estimate its correlation (positive or negative) with Florida bonneted bat occupancy or the relative conservation value of these areas.

In addition, model covariate layers representing high-quality foraging habitat include certain natural areas within the urban matrix based on our evaluation of land cover type characteristics; thus, we did not assume a broad negative association between foraging habitat quality and urbanization. We acknowledge that choice of scale typically impacts the results of any spatial analysis and that the influence and association of urban areas with Florida bonneted bat occurrence and habitat suitability may differ from our MaxEnt results if a different scale (i.e., grid cell size) is

used. Based on the attributes of the available covariate data, as well as on available sample size, we identified our grid cell size using the best available data on Florida bonneted bat biology and habitat use at the time of analysis (see “Florida Bonneted Bat Habitat Analysis” under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>).

Given acknowledged limitations of the habitat analysis, additional criteria were applied to identify areas containing the essential physical or biological features and delineate critical habitat (see *Selection Criteria and Methodology Used to Identify Critical Habitat*, below), including in urban areas.

(4) *Comment*: One peer reviewer and several public commenters stated their views that habitat is a three-dimensional concept, and therefore the airspace above the substrate, where the Florida bonneted bat forages and socializes, is essential to the conservation of the species. The peer reviewer also mentioned that because this three-dimensional habitat approach has been used in critical habitat for aquatic and fossorial species, the same approach should be applied to the Florida bonneted bat as a flying species. Some commenters suggested, citing Diehl et al. 2017 and other studies, that airspace above disturbed areas, including over paved surfaces, is vital habitat and heavily used by the species in some areas.

*Our Response*: We agree that airspace is important to this species. “Open areas,” as described in the second essential physical or biological feature for the Florida bonneted bat, include the ground, water, vegetation, and air where the Florida bonneted bat forages and socializes above those surfaces; thereby, the air above the surfaces where the Florida bonneted bat forages and socializes is included in the open areas described in the essential physical or biological features for the species. Since the species’ listing, consultations have considered the species’ use of habitat in three dimensions, and the evaluation of impacts to Florida bonneted bat habitat addressed in the Florida Bonneted Bat Consultation Guidelines also considers habitat use in three dimensions (see Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>).

(5) *Comment*: One peer reviewer and several public commenters expressed concerns regarding policy and language in the proposed rule that states that critical habitat does not include lands covered by buildings, pavement, and

other structures (see paragraph (3) in the proposed rule text for the Florida bonneted bat’s critical habitat designation at 85 FR 35510, June 10, 2020, p. 35539). Commenters stated their views that excluding these areas is arbitrary and unsupported by the best data available on the Florida bonneted bat, and thus these areas are inappropriately omitted from the critical habitat designation.

*Our Response*: The Florida bonneted bat may roost in buildings and forage above human-made structures, but critical habitat is not intended to include all areas and locations that the species uses. While certain human-made structures and the lands on which they are located are not included in the designated critical habitat for the Florida bonneted bat, impacts to bats using these areas may still be considered during consultations for effects to the species.

(6) *Comment*: One peer reviewer suggested that live oaks (*Quercus virginiana*) be included in the *Cover or Shelter* discussion as a potential roost tree species. The reviewer mentioned that a non-volant (flightless) pup was found below bisected tree cavity in a live oak, providing evidence that the Florida bonneted bat will roost in live oak trees. The peer reviewer also noted that the rule should acknowledge live oak as a potential roost tree species considering mature trees of this species with cavities are plentiful near known Florida bonneted bat foraging areas.

*Our Response*: Known natural roosts with Florida bonneted bat colonies have been documented in slash pine (*Pinus elliottii*), longleaf pine (*Pinus palustris*), bald cypress (*Taxodium distichum*), and royal palm (*Roystonea regia*) (see *Cover or Shelter*, below). All trees of appropriate size, regardless of species, are considered to be possible roost trees when project areas are evaluated and surveyed for consultations. While no tree species is omitted from consideration under the Florida bonneted bat’s essential physical or biological feature describing roosting habitat, we do not have the information needed to specifically identify live oak trees as a species in which roosts with Florida bonneted bat colonies have repeatedly been observed.

#### *Federal Agency Comments*

(7) *Comment*: Comments from the U.S. Army Corps of Engineers and Miami-Dade County recommended that conservation plans and additional conservation measures for the Florida bonneted bat be included either as part of the final rule or shared with Federal and local governments outside of the

rulemaking process. Other suggestions included that the Service provide funding for land acquisition, incentives for limiting pesticide use, guidance regarding bat-friendly lighting and exclusions, and outreach materials.

*Our Response*: We appreciate our partners’ support for conservation of the Florida bonneted bat and interest in specific and additional ways to conserve the species and its habitat. While critical habitat is one tool that supports conservation of the species, providing additional or specific conservation recommendations or funding conservation is not within the scope of a critical habitat designation. Additional discussion of conservation actions can be found in the Florida Bonneted Bat Conservation Strategy and the Florida Bonneted Bat Consultation Guidelines (see Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>) and will be more fully addressed in the species’ recovery plan. For further coordination on development of conservation plans related to the Florida bonneted bat or other listed species, please contact the Service (see **FOR FURTHER INFORMATION CONTACT**).

(8) *Comment*: In response to the June 10, 2020, proposed rule, the U.S. Army Corps of Engineers requested that private lands enrolled in the Wetland Reserve Easement Partnership Program (WREPP, formerly the Wetlands Reserve Program (WRP)) and lands within the Picayune Strand Restoration Project be excluded from critical habitat designation. They suggested that exclusion should be considered on an economic basis for both areas of land and, for lands enrolled in WREPP, that exclusion should also be considered due to the conservation benefits associated with the program.

*Our Response*: We listed this exclusion request in table 2 in the *Exclusion Requests Received During the Previous Public Comment Period* section of the revised proposed rule (87 FR 71466, November 22, 2022, p. 71481). In this final rule, we do not conduct an analysis of these lands to determine whether the benefits of potentially excluding any specific area from this critical habitat designation outweigh the benefits of including that area in the designation under section 4(b)(2) of the Act. Under our 2016 section 4(b)(2) policy, we may choose to exclude proposed critical habitat if there is a signed conservation plan or program that provides for the necessary long-term conservation and management of habitat for a species and an analysis has determined that the benefits of

excluding outweigh the benefits of including the area in critical habitat.

This comment was received in the context of the June 10, 2020, proposed rule, and the WREPP lands that were requested for exclusion (Wolf Island) were in Unit 1 of the proposed designation. Under the revised physical or biological features proposed in the November 22, 2022, revised proposed rule, those WREPP lands no longer meet the definition of critical habitat.

However, in our November 22, 2022, revised proposed designation, there were other WREPP lands that overlapped with our revised proposed critical habitat units, consisting of 387 ac (157 ha) in Subunit 2A. Because of this, we extrapolated the logic of the initial request to exclude WREPP lands, and we considered this initial request to also apply to WREPP lands in the revised proposal, although we did not receive a comment from the U.S. Army Corps of Engineers requesting that we consider these other WREPP lands for exclusion. However, we did not conduct an analysis considering the benefits of excluding WREPP lands covered by a non-permitted voluntary conservation plan because the initial request did not provide information on the benefits of exclusion that would be needed to weigh the potential benefits of excluding these lands from the critical habitat designation against including them in the designation. Further, we did not receive any other comments about this request. Additionally, it is our understanding that the conservation in agreements under the WREPP program is highly variable among landowners, and no landowner for these WREPP lands provided information or comment on either the June 10, 2020, proposed or November 22, 2022, revised proposed rule. Similarly, we do not conduct an exclusion analysis based on economic impacts for either WREPP lands or lands within the Picayune Strand Restoration Project (consisting of 64,490 ac (26,098 ha) in Unit 6) because the commenter described an economic burden that is purely associated with listing, and they did not describe any additional anticipated project modifications or costs anticipated to result from the designation of critical habitat for the Florida bonneted bat.

#### State Comments

(9) *Comment:* Two State agencies (the Florida Fish and Wildlife Conservation Commission and Florida Farm Bureau) and other commenters recommended that the Service provide assurances that the critical habitat designation would not negatively affect a land manager's or private landowner's ability to

implement resource management activities (e.g., prescribed fire, invasive species management, grazing, tree harvesting) or recreational activities (e.g., hunting, off road vehicle use) within critical habitat, and that it will not add regulatory burden. Further, commenters recommended that the Service identify which activities are likely to require (or not require) consultation with the Service and clarify the project modifications that would be needed to avoid adverse effects to or the destruction or adverse modification of critical habitat.

*Our Response:* The purpose of the designation of critical habitat is to identify those areas critical to the conservation of the species, not to impede resource or habitat management. Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. To help Federal and State agencies and members of the public recognize the actions considered to have potential effects on designated critical habitat, we generally identify those types of actions that could potentially result in destruction or adverse modification of designated critical habitat (see *Application of the "Adverse Modification" Standard*, below). The actual effects of a proposed action on designated critical habitat are dependent on many project-specific factors related to both the action being proposed and the project area. Therefore, we cannot determine or provide specific thresholds for adverse effects or adverse modification within this rule. Determination of adverse effects or adverse modification is conducted through the section 7 process, during which specific factors of the proposed action and conditions within the project area can be evaluated. This consultation requirement under section 7 is not a prohibition of otherwise lawful actions; rather, it is a means by which they may proceed in a manner that avoids destruction or adverse modification of critical habitat. Even in areas absent designated critical habitat, if the action may affect a listed species, consultation is still required to ensure the action is not likely to jeopardize the species. There is not expected to be any difference between a jeopardy analysis (on the species) and an adverse modification analysis (on the

species' critical habitat) conducted as part of the consultation because threats to the Florida bonneted bat are largely habitat-related and all critical habitat units are occupied.

Additionally, there are opportunities for collaboration and cooperation with our partners to develop conservation strategies, conservation plans, and programmatic consultations to streamline regulatory procedures and compliance and to benefit listed species.

#### Public Comments

(10) *Comment:* In response to the November 22, 2022, revised proposed critical habitat rule, one commenter requested clarification regarding how all peer review, public comments, and new information provided in response to the June 10, 2020, proposed rule were considered in our revised proposed designation process. They also asked what changes were made from the proposed rule to the revised proposed designation and reasons for those changes.

*Our Response:* All peer review, public comments, and new information we received on the June 10, 2020, proposed rule were thoroughly reviewed and considered in our November 22, 2022, revised proposed designation. Based on this review, we determined that changes were needed to the physical or biological features essential to the conservation of the Florida bonneted bat and the criteria and methodology used to identify those specific areas that constitute critical habitat for the species (see New Information and Revisions to Previously Proposed Critical Habitat at 87 FR 71466, November 22, 2022, p. 71469). To sufficiently address comments we received and incorporate new information, we comprehensively rewrote the proposed designation based on the development of a conservation strategy and corresponding critical habitat criteria, a new habitat analysis, and new essential physical or biological features, all based on the best available science. Given the significant and substantive changes we made in identifying the essential physical or biological features and, accordingly, the areas that meet the definition of critical habitat for the Florida bonneted bat, we determined it was necessary to revise the proposal and provide for notice and comment; therefore, we published the November 22, 2022, revised proposed rule (87 FR 71466). In this final rule, we are providing responses to peer review and public comments we received on both the June 10, 2020, proposed and November 22, 2022, revised proposed rules, and, where appropriate, we have noted how our November 22, 2022,

revised proposed designation addressed comments on the June 10, 2020, proposed rule.

(11) *Comment:* One commenter stated their view that the November 22, 2022, revised proposed rule explains how genetic diversity, geographic extent, and ecological diversity were incorporated in the revised proposed critical habitat designation, but it does not show that the designation is sufficient to achieve resiliency, redundancy, and representation.

*Our Response:* To determine and select appropriate areas, we incorporated information from the conservation strategy for the species (see “Florida Bonneted Bat Conservation Strategy” under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). This conservation strategy helped identify those areas within the Florida bonneted bat’s range that contain the essential physical or biological features. In the absence of population estimates or trend data, we used current presence data along with information regarding future changes to the landscape (e.g., due to climate and urbanization) to estimate the quantity and spatial arrangement of units that would be sufficient to conserve the species. The resulting 1,160,625-ac (469,688-ha) designation includes the four known Florida bonneted bat populations that support resiliency, redundancy, and representation of the species by including areas that maintain or reestablish connectivity within and between populations (supporting resiliency), that are predicted to be unaffected or less affected by sea-level rise and climate change (supporting resiliency), that are in each of the known genetically distinct areas and distributed across the geographic range of the species (supporting representation, redundancy, resiliency), and that are in each major ecological community that provides roosting habitat (supporting representation and resiliency).

(12) *Comment:* In response to the June 10, 2020, proposed and November 22, 2022, revised proposed critical habitat rules, several commenters stated their views that our designation process did not consider the best available scientific information and that information was not considered sufficiently or interpreted correctly. Specific concerns expressed included failure to incorporate all Florida bonneted bat location data, including acoustic and telemetry data, as well as specific published and unpublished information sources related to the species’ range, movements, biology, genetics, habitat

use, and threats (including climate change). One commenter disagreed with our interpretation of acoustic data, specifically related to the level of bat activity, which the commenter believes resulted in an over-inclusive designation regarding Subunit 9O.

*Our Response:* In development of the November 22, 2022, revised proposed critical habitat rule, we reviewed all information sources and specific information identified in comments on the June 10, 2020, proposed rule to ensure that they were considered as part of our revised designation process. We also obtained and incorporated all available location data for the Florida bonneted bat, including geographic information system (GIS) and non-GIS data from acoustic surveys, reports, and researchers (including roost locations and maps of telemetry data). All of this information was used in multiple facets of our revised designation process, including the development of our Florida Bonneted Bat Conservation Strategy and Florida Bonneted Bat Habitat Analysis (see these documents under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>), physical or biological features essential to the Florida bonneted bat, critical habitat criteria, and critical habitat delineation methods. As such, the November 22, 2022, revised proposed rule incorporated substantial new information representing the best available science. In addition, in the development of this final designation, we have reviewed additional information sources provided through public comments on the November 22, 2022, revised proposed rule and have updated the rule as appropriate (see Summary of Changes from the Proposed Rule, above).

We followed our standard peer review process for both the June 10, 2020, proposed and November 22, 2022, revised proposed rules to help ensure we are applying the best available information and that our interpretation is appropriate. While acoustic locations were used to indicate presence of Florida bonneted bats as part of our habitat analysis, information related to the level of bat activity (e.g., number of Florida bonneted bat calls or percentage of total bat calls) did not provide further insight into the presence of Florida bonneted bats in an area and was not used in delineating Subunit 9O or in any part of the revised designation process. Furthermore, as mentioned, the designation process is complex and not based on presence data alone.

(13) *Comment:* In response to the November 22, 2022, revised proposed

critical habitat rule, one commenter stated their view that the habitat analysis methods used were flawed and that the results appear to conflict with the best available science. Specifically, the commenter expressed concerns that our use of a combination of roost locations and positive acoustic detections (the latter of which represented the majority of locations) resulted in skewed data. The commenter asserted that the use of non-random acoustic data may have influenced our analysis results, which they said seem to disagree with independent research and peer-reviewed studies that suggest agricultural areas are important for the Florida bonneted bat. The commenter also questioned why and how we classified cover types as high-quality foraging habitat in our development of modeling covariates.

*Our Response:* In response to comments we received on the June 10, 2020, proposed critical habitat rule, we incorporated all available data (e.g., acoustic detections from all available sources, including locations sampled by Bailey et al. (2017a, entire), as well as known roost locations) in our November 22, 2022, revised proposed designation. In our initial exploratory analyses during the development of the revised proposed designation, model results based only on roost locations indicated the model was overfitted (i.e., model results corresponded too closely to the data used and thus may fail to predict future observations reliably), likely resulting from small sample size ( $n = 21$ ). Because these exploratory analyses showed that a roost-only model is not appropriate based on data available at the time of our analysis, in our final analysis, we chose to combine roost locations with acoustic data in a single presence dataset to ensure we incorporated all available GIS data into our model. Likewise, we did not limit our analysis to only those data collected using a randomized sampling design, as that would exclude a large amount of available data. As acknowledged in our Florida Bonneted Bat Habitat Analysis (see Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>), we recognize that the majority of acoustic data were collected during pre-development surveys and thus may exhibit a certain level of habitat bias based on project locations (but not due to survey protocol, as agricultural areas are included in potential foraging habitat to be surveyed (see “Florida Bonneted Bat Consultation Guidelines” under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106

on <https://www.regulations.gov>). We agree that this habitat bias likely contributed to the differing results obtained from our model related to correlation of species' occurrence with agricultural areas when compared to the results of those studies identified by the commenter (*i.e.*, Bailey et al. 2017a, p. 1589; Webb 2018, p. 25), although our results were also (and possibly more so) influenced by differences in the source and classification of land cover data, model covariates, and/or model spatial scale. While our designation is based on the best available data, we believe continued modeling efforts would be useful to better understand the Florida bonneted bat's habitat needs at both local and landscape scales, including how different habitat types contribute to supporting the long-term conservation of the species.

Many habitats or land cover types contribute at least minimally to providing foraging opportunities for Florida bonneted bats (*e.g.*, by producing prey), but not all of these areas are equal in the amount or type of prey they produce or in having the open habitat structure needed for maneuvering to catch prey. To explore these relationships, we classified land cover data in two ways: (1) Foraging habitat quality (high quality, low quality, not foraging habitat) based on the cover type's likelihood of producing large insects (*e.g.*, beetles and moths); and (2) foraging habitat structure (open, not open) based on the cover type description (see table 1 in Florida Bonneted Bat Habitat Analysis under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>). Many land cover types, including most agricultural types, were classified as high-quality foraging habitat (based on prey production); cover types we associated with lower prey production consisted of saltwater/saline habitats, highly manicured areas (*e.g.*, lawns), and unvegetated cover types. Of those cover types classified as high-quality foraging, all having an open habitat structure were classified as high-quality open foraging habitat. These classifications were then used to develop model covariate layers to investigate their potential influence on Florida bonneted bat occurrence. The MaxEnt model that we used in our analysis does not identify the amount of high-quality or high-quality open foraging habitat as having a strong influence on the probability of Florida bonneted bat occurrence; thus, these covariates were not incorporated in our model output or analysis results.

*(14) Comment:* In response to the November 22, 2022, revised proposed critical habitat rule, commenters stated concerns about various aspects of how current and future land use, the overall spatial extent of the designation, ownership, and habitat quality were considered in the revised proposed designation of critical habitat. Some commenters stated their views that private lands, urban areas, and agricultural areas were seemingly arbitrarily avoided in our revised critical habitat designation and that the spatial extent of the designation was arbitrarily reduced from the June 10, 2020, proposal. Other commenters expressed concern with the revised proposed critical habitat not aligning with ownership boundaries, such as conservation easements, property lines, or other easements, or suggested that the Service should consider future development plans when delineating critical habitat and aim to avoid or protect areas with plans for development. One commenter requested additional information regarding how we considered "hot spots" identified by the habitat analysis, specifically expressing concerns that some apparently high-quality areas were omitted from the revised proposed designation.

*Our Response:* Critical habitat, as defined in section 3 of the Act, includes the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection. In the development of our November 22, 2022, revised proposed designation, we followed this approach to identify and delineate critical habitat for the Florida bonneted bat using a step-wise process incorporating critical habitat criteria based on the species' conservation strategy, results of our spatially explicit habitat analysis, and additional information that could not be incorporated into our spatial analysis (see Conservation Strategy and Selection Criteria Used To Identify Critical Habitat, below). We did not consider ownership or management of any areas during this process, and ownership and management information (including easements) is not evaluated until after critical habitat delineation is completed; future development plans are not considered in the definition or delineation of critical habitat. Thus, private lands were not purposefully avoided, and most units include private lands to some degree. Urban and

agricultural areas, while not specifically avoided, are less prevalent than certain land cover types (*e.g.*, forested lands, freshwater wetlands) in the designation; this is primarily a result of their lower likelihood of containing the essential physical or biological features or their lower conservation value. For example, despite their use by Florida bonneted bats and their local importance in the southeastern extent of the species' range, many urban areas have lower conservation value to the species as a whole and do not contain the physical or biological features essential for the conservation of the Florida bonneted bat, as further discussed above in our response to *(3) Comment*. Likewise, although some agricultural areas are known to provide foraging habitat for the species, the conservation value of these areas is generally lower than that of other open foraging habitats that are dominated by native vegetation and not exposed to regular pesticide applications. Regardless of critical habitat designation, Federal agencies are required to fulfill their conservation responsibilities by consulting with the Service if the actions they authorize, fund, or carry out "may affect" listed species; therefore, Florida bonneted bats and their habitat are still protected by the Act where they occur, including in urbanized and agriculture areas.

Just as the composition of our November 22, 2022, revised proposed designation was guided by the factors described above, so were the spatial arrangement and extent of our revised critical habitat units. During the development of our revised proposed rule, we evaluated areas both within and outside the species' known range to identify those areas that meet the definition of critical habitat. This evaluation included areas identified as potential "hot spots" (areas having higher probability of Florida bonneted bat occurrence) in the predictive maps produced based on our MaxEnt model. We further evaluated these areas for the temperature limitations of the species and to ensure that land cover data were correctly categorized, and we eliminated areas that were unlikely to contain the physical or biological features essential to the species (*e.g.*, areas at the far northern edge of the model's spatial extent where winter temperatures are typically too low for the bat, areas where aerial imagery indicated poor habitat quality). Other areas identified as "hot spots" by the model but that were not occupied (*e.g.*, area east of Lake Okeechobee) were eliminated in a later step of our delineation process because we determined unoccupied

areas are not essential for the conservation of the Florida bonneted bat, as further discussed in our response to (1) *Comment*, above. The remaining areas were included in our November 22, 2022, revised proposed designation, as were additional areas where the physical or biological features essential to the species are found and which we determined were necessary to fulfill critical habitat criteria (e.g., areas for connectivity between model-identified “hot spots” that fall within the geographical area occupied by the species as defined at 50 CFR 424.02). These methods produced the specific critical habitat units included in our November 22, 2022, revised proposed designation, and any differences in unit size, arrangement, or composition between the June 10, 2020, proposed and November 22, 2022, revised proposed units are a result of delineations made following revised criteria to identify the essential physical or biological features rather than arbitrary changes (see also our response to (10) *Comment*, above).

(15) *Comment*: In response to the November 22, 2022, revised proposed critical habitat rule, one commenter questioned the removal of minimum patch size as a criterion for critical habitat units and suggested that this was not supported other than to allow for additional connectivity, including the addition of smaller patches or “stepping stones.” The commenter also requested that a definition be provided for the term “stepping stones.”

*Our Response*: Based on peer review and public comments on the June 10, 2020, proposed rule and new information, we determined that use of a minimum patch size was not appropriate for the Florida bonneted bat because using a minimum patch size would have eliminated areas that contain the physical or biological features essential to the conservation of the species and that provide necessary ecological community and genetic representation. “Stepping stones” are characterized in the November 22, 2022, revised proposed rule and in this rule under *Space for Individual and Population Growth and for Normal Behavior*, below, as suitable habitat in the form of linear corridors or patches and are described more specifically in the description of the essential physical or biological features as patches such as tree islands or other isolated natural areas within a matrix of otherwise low-quality habitat.

(16) *Comment*: Several comments expressed concerns that many threats to the Florida bonneted bat, as well as details related to some of the outlined

threats (e.g., habitat loss, climate change, environmental stochasticity, pesticides and contaminants), were not mentioned or fully addressed in the Special Managements Considerations or Protection discussions in the June 10, 2020, proposed and November 22, 2022, revised proposed rules.

*Our Response*: The threats included in the discussion under Special Management Considerations or Protection, below, as well as in the June 10, 2020, proposed and November 22, 2022, revised proposed rules, are potential threats to the physical and biological features, not threats directly to the Florida bonneted bat. Additionally, the threats included in our discussion are not intended to be an exhaustive list. Additional discussion of threats to the Florida bonneted bat can be found in the final rule to list the Florida bonneted bat as an endangered species (78 FR 61004; October 2, 2013). A comprehensive discussion of current and future threats to the species will be a part of the species’ upcoming recovery plan.

(17) *Comment*: Several commenters stated that the baseline approach used by the Service to assess economic impacts, which considers only impacts solely attributable to the critical habitat designation, is flawed and severely underestimates costs presented in the DEA. Commenters further suggested that considering all costs regardless of whether they are incremental to critical habitat designation, thus including those costs likely to be incurred to avoid adverse habitat modification as well as jeopardy to the species, would more accurately analyze how a critical habitat designation affects property owners.

*Our Response*: Because the primary purposes of the Service’s economic analysis are to facilitate the mandatory consideration of the economic impact of the designation of critical habitat, to inform the discretionary section 4(b)(2) exclusion analysis, and to determine compliance with relevant statutes and Executive orders, our economic analysis focuses on the incremental impact of the designation. The economic analysis of the designation of critical habitat for the Florida bonneted bat follows this incremental approach. As such, costs associated with actions that are anticipated to occur regardless of critical habitat designation for the Florida bonneted bat are not included.

The Service acknowledges that historically the method for assessing the economic impact of critical habitat designations has been the subject of significant debate. The United States Court of Appeals for the Tenth Circuit in *New Mexico Cattlegrowers Ass’n v.*

*FWS*, 248 F.3d 1277 (10th Cir. 2001) found that the regulatory definition of the jeopardy standard fully encompassed the adverse modification standard, rendering any purported economic analysis done utilizing the baseline approach, which only considers economic impacts that would not occur “but for” the critical habitat, virtually meaningless. For this reason, the court rejected the baseline approach to economic analysis. Later, in 2004, the Ninth Circuit (*Gifford Pinchot Task Force v. USFWS*, 378 F.3d 1059 (9th Cir. 2004)) invalidated the regulatory definition of “destruction or adverse modification.” The court held that the definition gave too little protection to critical habitat by not giving weight to Congress’ intent that designated critical habitat supports the recovery of listed species. On August 27, 2019, the Service issued a final rule (84 FR 44976) revising the definition of destruction or adverse modification in a way that allows the Service to define an incremental effect of the designation. This process eliminated the predicate for the Tenth Circuit’s analysis and decision. Therefore, the Service has concluded that it is appropriate to consider the impacts of designation on an incremental basis. Indeed, no court outside of the Tenth Circuit has followed *New Mexico Cattle Growers* since the Ninth Circuit issued *Gifford Pinchot Task Force* and the Service revised its definition of “destruction or adverse modification.”

Most recently, the U.S. Ninth Circuit Court of Appeals upheld the incremental approach as lawful explaining that “the very notion of conducting a cost/benefit analysis is undercut by incorporating in that analysis costs that will exist regardless of the decision made.” Further, when the plaintiffs filed a petition for *writ of certiorari* asking the U.S. Supreme Court to specifically answer the question of whether the government is required to “analyze all of the economic impacts of ‘critical habitat’ designation (regardless of whether the impacts are co-extensive with, or cumulative of, other causes), as the Tenth Circuit decided, or instead only those impacts for which ‘critical habitat’ designation is a ‘but for’ cause, as the Ninth Circuit decided,” the Supreme Court declined to hear the case (*Home Builders Association of Northern California v. United States Fish and Wildlife Service*, 616 F.3d 983 (9th Cir. 2010), cert. denied, 179 L. Ed. 2d 301, 2011 U.S. Lexis 1392, 79 U.S.L.W. 3475 (2011); citing *Arizona Cattle Growers v. Salazar*, 606 F.3d 1160 (9th Cir. 2010), cert. denied, 179 L. Ed. 2d 300, 2011

U.S. Lexis 1362, 79 U.S. L.W. 3475 (2011)). Subsequently, on August 28, 2013, the Service issued a final rule (78 FR 53058) revising its approach to conducting impact analyses for designations of critical habitat, specifying that we will compare the impacts with and without the designation (50 CFR 424.19(b)).

*(18) Comment:* Several commenters stated concerns that critical habitat designation for the Florida bonneted bat will alter land management, development, and conservation activities and will result in economic impacts that are not included or are underestimated in the DEA. Commenters specifically cited concerns that the costs that private entities incur during section 7 consultation (e.g., biologist and consultant fees, project modifications and mitigation, costs associated with permit and project delays) and potential increased litigation risk are a significant economic burden.

*Our Response:* Section 4 of the economic analysis (IEc 2021a, pp. 22–25) outlines the substantial baseline protections currently afforded the Florida bonneted bat throughout areas in the revised proposed critical habitat designation. These baseline protections result from the listing of the Florida bonneted bat under the Act and the presence of the species in all critical habitat units, as well as overlap with habitat of other, similar listed species and designated critical habitat. Specifically, once a species is listed as endangered or threatened, section 7 of the Act requires Federal agencies to consult with the Service to ensure that the actions they authorize, fund, or carry out will not jeopardize the continued existence of the species, even absent critical habitat designation. For designated critical habitat, section 7 also requires Federal agencies to ensure that their actions will not destroy or adversely modify critical habitat. Thus, a key focus of the economic screening analysis is evaluating whether the designation of critical habitat would trigger project modifications to avoid adverse modification that would be above and beyond modifications that would already have been undertaken to avoid adverse effects to the species itself. The jeopardy analysis conducted as part of consultation would focus on the same impacts that an adverse modification standard analysis would because threats to the Florida bonneted bat are habitat-related (e.g., removal, fragmentation, or degradation of habitat due to construction, development, or climate change). Under those circumstances, project modifications or

conservation measures would likely be required to address the species, regardless of whether there is designated critical habitat, because of the effects on the species. Therefore, it is unlikely that an analysis would identify a difference between measures needed to avoid the destruction or adverse modification of critical habitat from measures needed to avoid jeopardizing the species. Thus, the designation of critical habitat is unlikely to generate recommendations for additional project modifications in occupied areas. As such, we do not forecast any incremental costs associated with project modifications that would involve additional conservation efforts resulting from this critical habitat designation. Incremental costs include additional time for the Service, action agencies, and third parties to participate in consultations related to designated critical habitat for the Florida bonneted bat.

The Service makes its decision whether to specify any particular area as critical habitat based on the best available science after taking into consideration the economic impact, the impact on national security, and any other relevant impact. We do not consider the costs of litigation surrounding the critical habitat rule itself when considering the economic impacts of the rule. The extent to which litigation could increase the costs of a critical habitat designation is purely speculative and inappropriate for consideration.

*(19) Comment:* Several commenters stated that the number of actions that would be affected by the designation of critical habitat for the Florida bonneted bat, and thus the costs associated with those actions, may be larger than estimated in the DEA. Commenters specifically stated that the number of consultations associated with private projects that require Federal authorization (e.g., those triggering consultation under section 404 of the Clean Water Act, 33 U.S.C. 1251 *et seq.*) are underestimated in the DEA.

*Our Response:* The economic analysis forecasts the likely number of future section 7 consultation actions based on the number of consultations for the Florida bonneted bat that have occurred since its listing in 2013 and information from the Service about likely future actions in particular units. The analysis also incorporates information provided by several government agencies, as well as by several public commenters, into the forecast of the number of likely actions that will require section 7 consultation. Specifically, the analysis incorporates information from the

National Park Service, the U.S. Army Corps of Engineers, the Florida Department of Transportation, the Service's Southwest Florida Refuge Complex, the Miccosukee Tribe of Florida, the Seminole Tribe of Florida, Florida Power and Light (FPL), and other commenters. By adding the number of annual consultations based on the historical rate to the specific known actions and actions identified through commenter input, our estimate of the number of future consultation actions is likely to be overstated because some of these actions would have also been captured in the historical number of consultations. Also, see our response to *(18) Comment*, regarding the substantial baseline protections currently afforded the Florida bonneted bat throughout areas in the revised proposed critical habitat designation.

*(20) Comment:* Several commenters stated that the DEA underestimates the effect of the designation of critical habitat for the Florida bonneted bat on private land values, primarily because it does not account for the full perceptual effects of designating critical habitat.

*Our Response:* Section 5 of the economic analysis discusses the possible perceptual effects of the proposed designation on private property values. Specifically, this section of the economic analysis discusses comments and concerns submitted in response to previous critical habitat rulemakings that the designation of critical habitat may affect the value of a private property due to the public perception that the Act may preclude, limit, or slow development or somehow alter the highest and best use of the property. The analysis acknowledges that incremental costs from public perception of the critical habitat designation for Florida bonneted bat could be possible. As stated in the analysis, public attitudes and concerns about the regulatory effects of the Act can cause real economic effects to the owners of property, regardless of whether such concerns and effects are actually realized. Over time, as public awareness grows with respect to the role of critical habitat and the impacts of a critical habitat designation, particularly where no Federal nexus compelling a section 7 consultation exists, concerns regarding the effect of critical habitat designation on properties may subside.

While existing economic literature and prior public comments on previous designations suggest that costs may result from public perception about how critical habitat may affect private lands, given the differences in circumstances, including varying species, geographic



locations, public attitudes, and potential for a Federal nexus, we lack the ability to calculate costs associated with public perception in a manner that does not require extensive speculation.

Additionally, we are unable to estimate the magnitude of perception-related impacts to property values likely to result from this designation. We are unable to do this due to existing data limitations regarding the probability that such effects will occur, the likelihood of perception effects above and beyond those associated with the listing, and the presence of other co-occurring listed species and designated critical habitats.

*(21) Comment:* In response to the June 10, 2020, proposed rule, one commenter stated that the Service should account for and incorporate planned land use changes in the economic impacts of critical habitat designation considered in the DEA.

*Our Response:* Planned land use changes were considered and incorporated into our economic analysis of this critical habitat designation. Section 3 of the economic analysis forecasts section 7 consultations based on data on past consultation efforts for the Florida bonneted bat in or near proposed critical habitat areas and identifies known or probable projects in proposed critical habitat that may affect critical habitat designation or require consultation under section 7 of the Act. Known or probable projects were identified based on information we received from Federal agencies during the development of the incremental effects memorandum (IEM) and from the public in response to the June 10, 2020, proposed rule. In addition, public comments we received on the proposed rule from FPL, Collier Enterprises Management, and a number of other interested parties provided information about potential effects of the critical habitat designation for Florida bonneted bat on ongoing activities. We used this information, as well as comments from Federal and State agencies, to forecast the number of consultations that will occur for the Florida bonneted bat in proposed critical habitat areas over the next 10 years. Information we received during the public comment period for the November 22, 2022, revised proposed rule about potential effects of critical habitat designation for Florida bonneted bat on ongoing activities was also considered in our analysis of the probable incremental economic impacts of this critical habitat designation.

*(22) Comment:* One commenter stated that the DEA fails to account for private development on county-owned leased lands in the Miami-Dade Rocklands

Unit (Unit 9) and thus does not adequately estimate incremental costs, including those associated with perceptual effects, associated with private development on county-owned leased lands.

*Our Response:* We appreciate the information the commenter submitted with respect to Unit 9. We did consider potential activity on all areas within this unit, including county-owned leased lands, when evaluating the economic impacts. Because the primary purposes of the economic analysis are to facilitate the mandatory consideration of the economic impact of the designation of critical habitat, to inform the discretionary section 4(b)(2) exclusion analysis, and to determine compliance with relevant statutes and Executive orders, the economic analysis focuses on the incremental impact of the designation. The economic analysis of the designation of critical habitat for the Florida bonneted bat follows this incremental approach. Based on the consultation history and public and agency comments, the economic analysis anticipates that approximately 2 formal consultations, 15 informal consultations, and 3 technical assistance efforts will occur in the Miami-Dade Rocklands Unit that will consider Florida bonneted bat critical habitat during the next 10 years, or approximately 2 consultation actions annually. These forecasted consultations are not specific to particular landowners and may include county-owned lands.

Critical habitat would only affect a private development project on county-owned leased lands if there were a Federal nexus for the project or the designation of critical habitat triggered regulatory compliance under State or local laws. We are aware of Miami-Dade County approving a long-term lease for lands within Unit 9. Because this area is considered occupied for Florida bonneted bat and co-occurs with other listed species and their critical habitats, should there be a Federal nexus for a project conducted on these lands, the incremental economic impact as a result of this critical habitat designation would be limited to minor additional administrative economic costs due to the additional analysis required for the destruction or adverse modification analysis.

As the commenter notes, the economic analysis specifically discusses perception-related impacts as related to privately owned lands. Perception-related effects are also possible for county-owned lands that may be leased to private developers. However, for the reasons discussed above (see our

response to *(20) Comment*), we are unable to estimate the magnitude of perception-related impacts to property values that may result from this designation.

*(23) Comment:* In response to the June 10, 2020, proposed rule, Collier Enterprises Management, Inc. requested that we exclude the lands within the boundary of the draft East Collier Multiple Species Habitat Conservation Plan (HCP), totaling 3,772 ac (1,526 ha) within Units 5 and 6 of the revised proposed designation.

*Our Response:* We listed this exclusion request in table 2 of the revised proposed rule (87 FR 71466, November 22, 2022, pp. 71481–71482); however, we did not conduct an analysis to determine whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act because this HCP was withdrawn prior to the publication of this final rule.

*(24) Comment:* In response to the June 10, 2020, proposed rule, Aliese Priddy, JB Ranch I, LLC, requested that we exclude the property owned by JB Ranch I, LLC, and Sunniland Family Limited Partnership lands. In addition, Miami-Dade Limestone Products Association requested that we exclude lands overlapping the Florida legislature-designated Lake Belt mining area.

*Our Response:* We listed these exclusion requests in table 2 of the revised proposed rule (87 FR 71466, November 22, 2022, pp. 71481–71482), and we noted that these requests do not overlap with the revised proposed designation for the Florida bonneted bat. In this final rule, we did not conduct an analysis to determine whether the benefits of potentially excluding these specific areas outweigh the benefits of including them under section 4(b)(2) of the Act because the lands identified in these requests do not overlap with the final critical habitat designation.

*(25) Comment:* In response to the June 10, 2020, proposed and November 22, 2022, revised proposed rules, several commenters requested that broad areas of land (e.g., all private property; all currently operating cattle ranches, associated rights-of-way, and access points within proposed critical habitat; all Federal and other publicly owned lands; entire proposed critical habitat units; and/or all proposed critical habitat) be excluded from designation because of economic and regulatory burdens. Commenters expressed concerns that critical habitat designation would restrict or prevent

actions from proceeding on those lands. One commenter supported their request for exclusion by stating that our approach for assessing the economic impacts of critical habitat designation was flawed and advocated for a coextensive approach. One commenter further stated that all Federal and publicly owned lands should be excluded from the critical habitat designation because the Service has not demonstrated that exclusion of all lands from critical habitat will result in the extinction of the Florida bonneted bat.

*Our Response:* We considered these requests according to our 2016 section 4(b)(2) policy, which outlines measures we consider when excluding any areas from critical habitat. The commenters provided general statements of their desire to be excluded but provided no specific information about the economic impacts or reasoned rationale about the benefits of excluding any specific areas. To properly evaluate an exclusion request, the commenters must provide information concerning the economic impacts of the designation, and hence the need for exclusion. Thus, we did not conduct an analysis to balance or weigh the benefits of excluding the areas against the benefits of including the areas in the critical habitat designation. Neither the Act nor the implementing regulations at 50 CFR 424.19 requires the Secretaries of the Interior and Commerce (Secretaries) to conduct a discretionary section 4(b)(2) exclusion analysis (see, e.g., *Cape Hatteras Access Preservation Alliance v. DOI*, 731 F. Supp. 2d 15, 29–30 (D.D.C. 2010)). Rather, the Secretaries have discretion as to whether to conduct that analysis. If the Secretary decides not to consider exclusion of any particular area, no additional analysis is required.

Regarding the concern that the critical habitat designation would restrict or prevent actions, the requirement to consult with us on actions with a Federal nexus that may affect designated critical habitat is designed to allow actions to proceed while avoiding destruction or adverse modification of critical habitat, as further discussed in our responses to (9) *Comment* and (18) *Comment*.

Regarding the concern that our approach for assessing the economic impacts is flawed, the economic analysis for the designation of critical habitat for the Florida bonneted bat follows an incremental approach, which has been upheld by the courts, as further discussed in (17) *Comment*.

Regarding one commenter's assertion that all critical habitat should be excluded because this would not result in extinction of the species, we are

mandated by the Act to designate critical habitat for listed species, to the maximum extent prudent and determinable. The Act does not require us to exclude lands from the designation if that exclusion would not result in the extinction of the species. Rather, the Secretary of the Interior (Secretary) may exclude any particular area if she determines that the benefits of such exclusion outweigh the benefits of including such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species (see Consideration of Impacts under Section 4(b)(2) of the Act, below). As stated earlier in this comment response, because the commenter did not provide specific information or reasoned rationale about the benefits of excluding any specific areas, we chose not to conduct an analysis to balance or weigh the benefits of excluding the areas against the benefits of including the areas in the critical habitat designation.

(26) *Comment:* In response to the November 22, 2022, revised proposed rule, Miami-Dade County requested that we exclude the 327 ac (132 ha) of the developed footprint of Zoo Miami due to concerns that including this area in the critical habitat designation would prevent the zoo from conducting activities needed to adhere to Association of Zoos and Aquariums (AZA) accreditation standards. The commenter expressed concern that if they were not able to meet AZA standards, they could lose their AZA accreditation, which impacts the zoo's economic capacity.

*Our Response:* We appreciate our partners' efforts to conserve wildlife and inspire stewardship for local wildlife as well as species around the world. We considered this request for exclusion according to our 2016 section 4(b)(2) policy, and we consulted with AZA accreditation experts and reviewed the AZA accreditation standards and related policies (AZA 2024, entire).

Because a focus on conservation and active stewardship of the natural environment, including wildlife, is part of the accreditation process and standards (AZA 2024, pp. 6, 12, 27–28), it is reasonable to assume that a demonstrated commitment to supporting the conservation of an endangered species, such as the Florida bonneted bat, would benefit an organization seeking accreditation.

Human-altered areas such as buildings or pavement without any type of vegetation that could provide roosting habitat or support insect populations

that provide prey for the Florida bonneted bat may not possess the physical and biological features essential to the conservation of the species and would not meet the definition of critical habitat. These areas are “excluded by text” from the designation. However, the Zoo Miami property does include areas that contain the physical and biological features essential to the conservation of the Florida bonneted as well as features essential to five other species with designated critical habitat within the Zoo Miami area.

Also, critical habitat designations do not affect activities by private landowners unless projects have a Federal nexus (e.g., on Federal property, using Federal funding, authorized or carried out by a Federal agency). Furthermore, any regulatory burden related to updating or improving exhibits or expanding the developed areas of Zoo Miami to maintain accreditation would be associated with the species' listing, not the critical habitat designation. Therefore, since the designation of critical habitat is unlikely to have a negative effect on the ability of Zoo Miami to continue AZA accreditation and any foreseen regulatory burden would be purely associated with listing, we did not conduct an analysis to determine whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act. Neither the Act nor the implementing regulations at 50 CFR 424.19 require the Secretaries to conduct a discretionary 4(b)(2) exclusion analysis (see, e.g., *Cape Hatteras Access Preservation Alliance v. DOI*, 731 F. Supp. 2d 15, 29–30 (D.D.C. 2010)). Rather, the Secretaries have discretion as to whether to conduct that analysis. If the Secretary decides not to consider exclusion of any particular area, no additional analysis is required.

(27) *Comment:* We received comments from the Division of Charlotte County Mosquito Control and the Collier Mosquito Control District requesting that the areas of critical habitat overlapping their respective mosquito control districts be excluded from critical habitat; we also received comments expressing concern about designating the portions of Lee, Collier, and Charlotte Counties for which taxes fund mosquito control services. Commentors expressed concerns that the designation of critical habitat would restrict their ability to conduct mosquito control practices within critical habitat, resulting in negative impacts to public health, suppression of economic growth, and reductions in land value.

*Our Response:* We considered this request for exclusion under our 2016 section 4(b)(2) policy. No specific information was provided to enable us to conduct an analysis to balance or weigh the benefits of excluding the areas against the benefits of including the areas in the designation. Therefore, we did not conduct an analysis to determine whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act. Neither the Act nor the implementing regulations at 50 CFR 424.19 require the Secretaries to conduct a discretionary section 4(b)(2) exclusion analysis (see, e.g., *Cape Hatteras Access Preservation Alliance v. DOI*, 731 F. Supp. 2d 15, 29–30 (D.D.C. 2010)). Rather, the Secretaries have discretion as to whether to conduct that analysis. If the Secretary decides not to consider exclusion of any particular area, no additional analysis is required.

The lands included in this critical habitat designation are all considered occupied by the Florida bonneted bat. Therefore, regardless of any critical habitat designation, activities that may take Florida bonneted bat are subject to prohibitions under section 9 of the Act. We would recommend protective measures be established for the Florida bonneted bat regardless of critical habitat designation within mosquito control districts because of potential impacts to the species, but this critical habitat designation does not limit or stop mosquito control operations or reduce efforts to protect communities from mosquito-borne viruses.

(28) *Comment:* Miami-Dade County and several other commenters requested clarification regarding the areas that are excluded from designation “by text,” specified at paragraph (3) in the regulatory text of the critical habitat designation for the Florida bonneted bat, and what meets the characteristics of natural habitats at the time of critical habitat designation. Commenters also stated their views that some areas within Unit 9 in the November 22, 2022, revised proposed designation should not be included in the final designation because they should be considered developed or because they do not contain the physical or biological features essential for the conservation of the species.

*Our Response:* As specified at paragraph (3) of the regulatory text in this rule (see Regulation Promulgation, below), critical habitat does not include human-made structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located. These types of

structures and lands that are within critical habitat units on the effective date of this final rule (see **DATES**, above) are excluded from designation “by text.” Areas within delineated critical habitat units that (1) are not human-made structures or the land on which they are located and (2) include any of the physical or biological features essential to the conservation of the Florida bonneted bat are designated critical habitat. These areas could include human-altered areas such as areas near buildings or pavement with any type of vegetation that could provide roosting habitat or could support insect populations that provide prey for the Florida bonneted bat. Where specific areas were identified by commenters, we evaluated and determined that removal from the final designation was not appropriate or required because the areas would already be excluded from the designation under paragraph (3) of the regulatory text or because they have at least one physical or biological feature essential to the conservation of the species that requires special management considerations or protection (and, thus, do meet our criteria for designating critical habitat). Questions regarding whether other specific areas are included in the designation should be directed to the Service (see **FOR FURTHER INFORMATION CONTACT**). Even absent critical habitat designation, Federal agencies are still required to consult with the Service if any action they authorize, fund, or carry out may affect listed species, so impacts to Florida bonneted bats using these areas may still be considered during consultations for effects to the species.

(29) *Comment:* One commenter requests an explanation of how the State of Florida’s assumption of permitting authority under section 404 of the Clean Water Act program affects the consideration of critical habitat in reviews of projects or actions impacting Florida bonneted bats.

*Our Response:* Consistent with the biological opinion, which is titled, “U.S. Environmental Protection Agency’s Approval of Florida Department of Environmental Protection’s Assumption of the Administration of the Dredge and Fill Permitting Program under Section 404 of the Clean Water Act” (Service 2020, entire), and a memorandum of understanding between the Service, Florida Department of Environmental Protection (FDEP), and Florida Fish and Wildlife Conservation Commission (FWC), we provide technical assistance to FDEP to ensure that no State 404 permit action jeopardizes the continued existence of federally listed species or

adversely modifies or destroys critical habitat, pursuant to 40 CFR 233.20(a). We continue to consult with the U.S. Army Corps of Engineer on permits they issue pursuant to section 404 of the Clean Water Act.

(30) *Comment:* One commenter stated that the Service should prepare an environmental impact statement to comply with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) for every Federal action significantly affecting the quality of the human environment. The commenter also stated that the Service should have included an initial regulatory flexibility analysis with the proposed rule to comply with the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*). The commenter further stated that the Service has not accurately represented the significant impact that this critical habitat rule will have on a substantial number of small entities.

*Our Response:* It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to NEPA in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)). Therefore, it is appropriate that we did not prepare an environmental impact statement for this designation of critical habitat. See also *National Environmental Policy Act* (42 U.S.C. 4321 *et seq.*), below.

As required by the RFA, we evaluated the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself. Under section 7 of the Act, only Federal action agencies are directly subject to this specific regulatory requirement imposed by critical habitat designation. Therefore, because no small entities will be directly regulated by this rulemaking, we certify that this critical habitat designation will not have a significant economic impact on a substantial number of small entities. See *Regulatory Flexibility Act* (5 U.S.C. 601 *et seq.*), below, for more detail.

(31) *Comment:* In response to the November 22, 2022, revised proposed critical habitat rule, two commenters noted that the information necessary to evaluate the impacts of critical habitat (e.g., Florida Bonneted Bat Consultation Guidelines, shapefile for critical habitat maps) were not available or difficult to

obtain during the comment period for the revised proposed rule, thus making it difficult to fully review and provide comment on the revised proposed rule.

**Our Response:** We agree that sharing the supporting documents for proposed rules during the comment period is important for providing the public the ability to fully review and comment on a proposed rule. During the comment period for the November 22, 2022, revised proposed critical habitat rule, all supporting documents, with the exception of shapefiles (which are not supported by the platform), were made available at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2019-0106, as noted in the revised proposed rule (87 FR 71466; November 22, 2022). During the comment period for the November 22, 2022, revised proposed rule, the Florida Ecological Services Field Office website was undergoing updates, and we were unable to make some information directly available from the office website, although much of it was available in the docket for the revised proposed rule on <https://www.regulations.gov>. However, the November 22, 2022, revised proposed rule also provided our contact information to the public for questions, and we did, upon being contacted, provide the link to the critical habitat shapefile directly to the commenter and all other individuals and partners who requested this information.

**(32) Comment:** In response to the November 22, 2022, revised proposed critical habitat rule, one commenter suggested that the Service should be more transparent with the data we consider in the designation of critical habitat, making data and information publicly accessible unless we risk compromising sensitive information and sharing peer reviews we receive on proposed rules.

**Our Response:** We agree that transparency is important and always strive to share with the public the information that supports our proposed and final rules where prudent to do so. As noted in **(31) Comment**, we made supporting documents publicly available concurrent with the publication of the June 10, 2020, proposed and November 22, 2022, revised proposed rules, with the exception of shapefiles, which we shared upon request. Included in these supporting documents were the DEA, conservation strategy, a list of conservation lands that overlap with the proposed designation, conservation and natural resource management plans for areas we were considering for exclusion, a summary of the habitat analysis conducted to inform delineation of the

revised proposed critical habitat units, and a list of all literature cited in the rule with references available as attachments. The Florida Bonneted Bat Conservation Strategy provides a technical foundation for recovery strategies, summarizing the best scientific data available concerning the status of the species and threats affecting the species, and outlines objectives for achieving recovery of the Florida bonneted bat. This document was prepared based on input and information from researchers and species experts. Additionally, we have provided the Recovery Outline for Florida Bonneted Bat (*Eumops floridanus*) (see Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>) concurrent with publication of this final rule. The recovery outline is a brief document that broadly sketches the interim conservation and management program for the Florida bonneted bat during the time between the species' final listing under the Act and completion of a recovery plan.

We also agree that it is important to provide the public access to the peer review responses we receive on proposed rules. In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we summarize peer review in this final rule. Prior to the publication of the November 22, 2022, revised proposed rule, we also shared all peer review comments on the June 10, 2020, proposed rule and the accompanying conflict of interest forms completed by the peer reviewers; these peer reviews and conflict of interest forms were made available at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2019-0106 on September 29, 2020. Concurrent with the publication of this final rule, we have made available the most recent peer review and accompanying completed conflict of interest form on the revised proposed critical habitat rule at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2019-0106.

**(33) Comment:** In response to the November 22, 2022, revised proposed critical habitat rule, we received two comments that raised concerns that the peer review of the proposed rule was flawed, specifically, that there were not enough reviewers, reviewers were unqualified, and that a peer reviewer had an undisclosed conflict of interest.

**Our Response:** The Service has long been committed to the use of best available science in decision-making and to the use of peer review to improve such science. The Service solicited

independent scientific reviews of both the June 10, 2020, proposed and November 22, 2022, revised proposed rules in accordance with our joint policy on peer review (59 FR 34270; July 1, 1994), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act.

The policy and memo direct us to solicit an independent scientific review from a minimum of three reviewers; accordingly, we sent the June 10, 2020, proposed critical habitat rule to six reviewers and the November 22, 2022, revised proposed critical habitat rule to five reviewers. In response, we received two reviews of the June 10, 2020, proposed rule and one review of the November 22, 2022, revised proposed rule.

As directed in our August 22, 2016, memorandum, we selected qualified reviewers with, "expertise and/or experience relevant to the scientific questions and determinations addressed in our actions." Peer reviewers were selected based on their ability to act as an independent reviewer and on their expertise related to the Florida bonneted bat and its habitat and threats. Peer reviewers were asked to review the science applied to the June 10, 2020, proposed and November 22, 2022, revised proposed critical habitat rules, and the peer reviews they submitted did indeed focus on critique of the science rather than policy. One peer reviewer who provided comments on the June 10, 2020, proposed rule is a Service employee but does not work within Florida, did not contribute otherwise to the development of this rule, and is a subject matter expert (bats); thus, we think this person meets the standards set forth by our peer review policy and clarified in our August 22, 2016, memorandum. Additionally, we solicited peer review from five other external experts.

Per our August 22, 2016, memorandum, peer reviewers were required to complete a conflict of interest form, and we assessed potential conflicts of interest by examining financial and business relationships and consulting arrangements, using applicable standards issued by the Office of Government Ethics. As noted in our August 22, 2016, memorandum, "Divulging a conflict of interest does not invalidate the comments of the reviewer; however, it will allow for transparency to the public regarding the reviewer's possible biases or associations." In instances where a reviewer has a substantial conflict of interest, we will evaluate their comments in light of that conflict;

however, we did not determine that any of the three peer reviewers who submitted comments on the two proposed rules have a substantial conflict of interest.

(34) *Comment:* Several commenters suggested that the Service should notify private landowners if their land overlaps a proposed critical habitat designation.

*Our Response:* We strive for good communication with the public, including communicating our intent to designate critical habitat and making available proposed critical habitat rules, which include the specific locations where critical habitat is proposed. Section 4(b)(5) of the Act requires us to, not less than 90 days before the effective date of the regulation, publish a general notice and the complete text of the proposed regulation in the **Federal Register**. For the June 10, 2020, proposed and November 22, 2022, revised proposed critical habitat rules for the Florida bonneted bat, we notified the public via publication in the **Federal Register** on June 10, 2020 (85 FR 35510), and November 22, 2022 (87 FR 71466), respectively. On June 9, 2020, we posted a press release notifying the public of the publication of the June 10, 2020, proposed critical habitat rule on our Regional website, and on November 21, 2022, we also posted a press release notifying the public of the publication of the November 22, 2022, revised proposed critical habitat rule at <https://www.fws.gov/press-release/2022-11/florida-bonneted-bat>. For the June 10, 2020, proposed rule, newspaper notices inviting general public comment were published in the Orlando Sentinel, Ft. Myers News-Press, Sarasota Herald Tribune, and Miami Herald newspapers. For the November 22, 2022, revised proposed rule, a newspaper notice inviting general public comment was again published in the Miami Herald newspaper. For the proposed and revised proposed rules, we also disseminated notice of the publication on various social media platforms, including Twitter and Facebook, and sent notices to several interested parties, including nongovernmental organizations and interested industry and property-holding entities. Accordingly, we make every attempt to ensure the public is well-informed of proposed regulations that may affect it.

## Background

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species; and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat,

the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would likely result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement "reasonable and prudent alternatives" to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources

may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, HCPs, or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

#### **Physical or Biological Features Essential to the Conservation of the Species**

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. The regulations at 50 CFR 424.02 define "physical or biological features essential

to the conservation of the species" as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; food, water, air, light, minerals, or other nutritional or physiological requirements; and habitats with appropriate disturbance regimes (for more information, see the October 4, 2012, proposed rule to list the Florida bonneted bat (77 FR 60750), and the Florida Bonneted Bat Conservation Strategy (see Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>)). We summarize below the more important habitat characteristics, particularly those that support the description of physical or biological features essential to the conservation of the Florida bonneted

bat. We also consider these habitat features relative to the scale at which Florida bonneted bats use the features, allowing us to more logically organize the physical or biological features to delineate the critical habitat.

#### *Space for Individual and Population Growth and for Normal Behavior*

Due to the spatial variability of its prey, its large size, and its wing morphology, the Florida bonneted bat has significant spatial needs for foraging. Insect abundance, density, and community composition frequently vary across space and over time based on season and environmental conditions. As a result of this spatial variability, Florida bonneted bats may need to travel far distances and feed over large areas to satisfy dietary needs. For example, Florida bonneted bats from Babcock-Webb WMA, on average, traveled 9.5 miles (mi) (15 kilometers (km)) from their roosts and flew 24 mi (39 km) total per night (Webb et al. 2018, p. 8; Webb 2018, pers. comm.). These bats also traveled maximum distances of more than 24 mi (39 km) from their roosts and more than 56 mi (90 km) total in one night (Webb et al. 2018, p. 8; Webb 2018, pers. comm.). Florida bonneted bats also require open areas for foraging due to their large body size and the morphology of their wings, which are designed for fast and efficient, but less maneuverable, flight.

This large bat relies on swarms of larger insects for feeding; thus, foraging habitat for the Florida bonneted bat consists of areas that hatch and concentrate insects of this size, including vegetated areas and waterways. These bats are also frequently detected in agricultural areas and golf courses (Bailey et al. 2017a, entire) and are known to feed on insects associated with crops (Webb 2018, pp. 12, 61).

Ecologically diverse areas of suitable habitat representing the geographic extent of the species' range are also important for population growth and persistence. The major ecological communities (Myers and Ewel 1990, entire; Service 1999, entire; FNAI 2010, entire) that provide Florida bonneted bat roosting habitat in central and southern Florida include: pine rocklands (south Florida rockland, rockland pine forest, rockland hammock); cypress communities (cypress swamps, strand swamps, domes, sloughs, ponds); hydric pine flatwoods (wet flatwoods); mesic pine flatwoods; and high pine. A variety of other habitats, including agricultural areas, may be used as well (Bailey et al. 2017a, entire), and freshwater forested

wetlands, including areas with longer hydroperiods and deeper water, may be more important to the species than previously thought (FWC and Fish and Wildlife Research Institute (FWRI) 2023, pp. 15–24). Diverse, open foraging habitats (e.g., prairies, riverine habitat) are also important. Adequate roosting and foraging habitats are essential to the species, as they provide the diversity necessary to allow for population resiliency following minor disturbances (e.g., loss of roost tree, cold snap) as well as more significant stochastic events (e.g., hurricane, drought, forest disease, climate change).

Structural connectivity (suitable habitat in the form of linear corridors or patches creating “stepping stones”) facilitates the recolonization of extirpated populations; facilitates the establishment of new populations; and allows for natural behaviors needed for foraging, exploratory movements, and dispersal. Four genetically differentiated populations of the Florida bonneted bat have been identified (Charlotte, Polk/Osceola, Lee/Collier, and Miami-Dade Counties) (Austin et al. 2022, entire; also see the Florida Bonneted Bat Conservation Strategy under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). While dispersal of Florida bonneted bats appears to be geographically restricted between populations, the geographic extent of the four genetically differentiated areas is not yet known, and maintaining structural connectivity to allow for ongoing and future functional connectivity (i.e., actual movement of animals and/or exchange of genes) between known populations remains important to the species for resiliency as well as population stability and growth (Austin et al. 2022, pp. 507–508). Structural connectivity in the form of vegetated corridors with opportunities for roosting and/or foraging, vegetated river corridors and other areas with freshwater available year-round, and habitat patches such as pine rockland fragments and tree islands are needed to provide and maintain connections between regions where known Florida bonneted bat populations occur. Maintaining viable populations in each of the known genetically differentiated areas and protecting connectivity is necessary for the demographic and genetic health of the species. Therefore, it is important that this species has areas of ecologically diverse and connected habitat, including sufficient amounts of open foraging habitat.

#### Cover or Shelter

The Florida bonneted bat primarily roosts in tree cavities, either as individuals or small or large colonies (Ober et al. 2017, p. 378; Braun de Torrez et al. 2020a, p. 6; 2020b, entire). Roosts provide protection from sunlight, adverse weather, and predators; sites for mating, rearing of young, social interaction and information sharing, resting, and digestion of food; and microclimate stability (Kunz 1982, entire; Ormsbee et al. 2007, pp. 130–135; Marks and Marks 2008a, p. 4; Dechmann et al. 2010, pp. 1–7; Bohn 2012, in litt.).

Florida bonneted bat roosts are difficult to locate; only 36 natural roosts have been identified (not all currently occupied), the first in 2013 (Angell and Thompson 2015, entire; Braun de Torrez et al. 2016, entire; Braun de Torrez et al. 2020b, entire; Braun de Torrez 2021, pers. comm.; Borkholder 2022, pers. comm.; Braun de Torrez 2022, pers. comm.). Known natural roosts have been documented in the following tree species: slash pine, longleaf pine, bald cypress, and royal palm (Braun de Torrez et al. 2020b, entire). A significant proportion of known roosts are in snags of these tree species (Braun de Torrez et al. 2020b, entire). One non-volant (flightless) pup was found at the base of a live oak hours after a tree cavity was bisected (Ridgley 2020, pers. comm.); it is not known if this tree species is commonly used as a roost site or may be used particularly where suitable trees are sparse.

Relative to surrounding trees, Florida bonneted bat roost trees tend to have greater overall height (average of 58 feet (ft) (17.7 meters (m)) with a range of 34 to 93 ft (10.4 to 28.2 m)), diameter (average of 15 inch (in) (38 centimeter (cm)) diameter at breast height (dbh) with a range of 7.4 to 27 in (19 to 69.5 cm) dbh), and canopy height relative to the surrounding trees (average of 19.8 ft (6 m) with a range of –2.6 to 49 ft (–0.8 to 15 m)) (Braun de Torrez et al. 2020b, entire; Hoyt 2023a, b, pers. comm.). The species also appears to require sufficient unobstructed space for emergence, with cavities high above the ground (average of 49 ft (14.9 m) with a range of 27.5 to 77 ft (8.4 to 23.5 m)) and roost trees set apart from the nearest tree (by an average of 12 ft (3.8 m) with a range of 2 to 39 ft (0.6 to 11.9 m)) (Braun de Torrez et al. 2020b, entire; Hoyt 2023a, pers. comm.), often in open or semi-open canopy and canopy gaps. Cavities may require a minimum of approximately 27.5 ft (8.4 m) of ground clearance (i.e., cavity height above the ground) (Braun de Torrez et al. 2020b,

entire; Hoyt 2023a, pers. comm.); however, there are two instances of Florida bonneted bats using bat houses with approximately 13 ft (4 m) of ground clearance in Miami-Dade County (Ridgley 2021, unpublished data). Collectively, this indicates that this species prefers large trees with adequate space around the cavity for emergence. Florida bonneted bats typically roost in cavities made by other species (notably woodpeckers) or by natural damage caused by fire, storms, or decay.

The Florida bonneted bat is suspected to have high roost-site fidelity. Some roosts are used for several years by Florida bonneted bat colonies, possibly decades (Myers 2013, pers. comm.; Scofield 2013a–b, pers. comm.; 2014a–b, pers. comm.; Bohn 2014, pers. comm.; Gore et al. 2015, p. 183; Angell and Thompson 2015, p. 186; Hosein 2016, pers. comm.; Webb 2017, pers. comm.; B. Myers 2018, pers. comm.; Aldredge 2019, pers. comm.). Conversely, natural roosts may frequently succumb to natural causes (i.e., hurricanes, wildfire), resulting in total loss or too much damage to allow for future roosting. At least 37 percent of the known natural roosts discovered since 2013 are now uninhabitable (due to decay, hurricanes, and other factors) (Braun de Torrez et al. 2020b, entire). Suitable roost sites are a critical resource, are an ongoing need of the species, and may be limiting population growth and distribution in certain situations. The loss of a roost site may represent a greater impact to this species relative to some other bat species (Ober 2012, in litt.).

Florida bonneted bats also roost in artificial structures (e.g., homes with barrel-tile roofs, chimneys, barns, hangars, utility poles) and bat houses (Marks and Marks 2008b, p. 8; Morse 2008, entire; Trokey 2012a–b, pers. comm.; Gore et al. 2015, entire; see *Use of Artificial Structures (Bat Houses)* in the final listing rule (78 FR 61004, October 2, 2013, p. 61010)). While artificial roosts can provide valuable alternative, long-term, and hurricane-resilient roosting habitat for the species where roosting habitat is limited (Braun de Torrez 2022, pers. comm.), these are imperfect surrogates for natural roosting habitat and are not on their own a habitat feature essential for the species' survival. Therefore, natural roosts (i.e., live or dead trees and tree snags, especially longleaf pine, slash pine, bald cypress, and royal palm, taller than 34 ft (10.4 m) and greater than 7.4 in (19 cm) dbh and having unobstructed space for emergence) are important habitat characteristics for this species.



### *Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring*

Sites supporting the Florida bonneted bats' breeding activities appear to be required year-round (Timm and Genoways 2004, p. 859; Ober et al. 2017, p. 382; Bailey et al. 2017b, p. 556; see also *Life History* in the final listing rule (78 FR 61004, October 2, 2013, pp. 61005–61006) and *Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*, below). Reproductively active adults have been observed during August, December, and April capture sessions, and non-volant pups (young not yet capable of flying) have been documented in roosts in every month other than February and March (Scofield 2014b, pers. comm.; Angell and Thompson 2015, p. 186; Ridgley 2015, pers. comm.; Ober et al. 2017, pp. 381, 383;384; Gore 2017, pers. comm.; J. Myers 2018, pers. comm.; 2020, pers. comm.). Based upon these data, flightless young bonneted bats and females with high energetic demands due to pregnancy and lactation may be vulnerable to disturbance for at least 10 months of the year. Most roosting bats are sensitive to human disturbance (Kunz 1982, p. 32), and maternity colonies may be especially intolerant of disturbance (Harvey et al. 1999, p. 13; see also *Inadvertent and Purposeful Impacts from Humans* in the final listing rule (78 FR 61004, October 2, 2013, pp. 61033–61034)).

Florida bonneted bat colonies conform to a harem structure (one dominant male, several reproductively active females and their young) with males exhibiting resource defense polygyny (dominant males defend the roost from other males) (Ober et al. 2017, p. 382; Braun de Torrez et al. 2020a, pp. 10–12). This type of social organization, together with evidence of high roost-site fidelity, underscores the importance of roosts to this species for population maintenance, population growth, and natural behaviors. Disturbance of a roost at any time can alter social dynamics and impact reproductive success (Ober et al. 2017, p. 382). Accordingly, areas where roosting and other natural behaviors can occur undisturbed are important in considering the conservation of the species.

### *Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements*

The Florida bonneted bat's precise foraging habits and long-term requirements are unknown (Belwood 1992, p. 219). However, because the species is active year-round and

aseasonally polyestrous (*i.e.*, having more than one period of estrous in a year, not restricted to one season) (Timm and Genoways 2004, p. 859; Marks and Marks 2008a, p. 9; Ober et al. 2016, entire), the Florida bonneted bat likely needs constant and/or multiple sources of prey to support its high metabolism. Energy demands of the Florida bonneted bat probably fluctuate seasonally (*e.g.*, assumed higher demands during cold weather as the species does not have periods of torpor (a state of decreased physiological activity in an animal, including decreased body temperature, heart rate, and metabolism)) and during sensitive times (*e.g.*, maternity, nursery, supporting offspring). The maternity season is a time of particular sensitivity, with increased energy demands and risks as females leave young in roosts while making multiple foraging excursions to support lactation (Kurta et al. 1989a, entire; Kurta et al. 1990, entire; Kunz et al. 1995, entire; Marks and Marks 2008a, pp. 8–9; Ober et al. 2016, entire). Exploitation of insects in patches that yield high-energy returns for pregnancy and lactation is important (Kunz et al. 1995, p. 412). Reduced insect populations in urban areas may make it difficult for females to successfully raise offspring to maturity (Kurta et al. 1990, entire; Kurta and Teramino 1992, p. 260).

Most insectivorous bats eat large quantities of insects (Ross 1967, entire; Black 1974, entire; Kunz 1974, entire; Kunz et al. 1995, entire; Kurta and Whitaker 1998, entire; Lee and McCracken 2002, pp. 306–313; 2005, entire; Leelapaibul et al. 2005, entire; Kunz et al. 2011, entire). Insectivorous bat activity and diversity are strongly correlated with arthropod abundance (Racey and Swift 1985, pp. 210–211, 214; Wickramasinghe et al. 2004, entire; Wickramasinghe et al. 2003, pp. 987–992), suggesting that bats seek out areas of concentrated prey sources (Kunz et al. 2011, p. 5). Foraging behavior is tied in part to insect abundance, availability, and density (Anthony and Kunz 1977, entire; Racey and Swift 1985, p. 212; Wickramasinghe et al. 2003, pp. 987–992; Wickramasinghe et al. 2004, entire). Exploitation of insects in patches that yield high-energy returns appears to be important for meeting the energy needs associated with prolonged flights as well as pregnancy and lactation (Kunz et al. 1995, p. 412). In general, bats foraging from continuous flight must encounter prey at relatively high rates and successfully attack many individual items (Fenton 1990, p. 416). Since Florida bonneted bats are thought

to employ this feeding strategy, areas with higher insect abundance, more (multiple) prey sources, and diverse natural habitats that produce prey diversity are essential for suitable foraging habitat.

Like other molossids (*e.g.*, Brazilian free-tailed bats (*Tadarida brasiliensis*)), the species may be a generalist predator, capable of opportunistically exploiting available resources (McCracken et al. 2012, entire). Limited information from guano analyses indicates Florida bonneted bats feed on flying insects of the following orders: Coleoptera (beetles), Diptera (flies), Hemiptera (true bugs), Lepidoptera (moths), and Trichoptera (caddisflies) (Belwood 1981, p. 412; 1992, p. 220; Marks 2013, entire; Marks and Marks 2015, pp. 2–3). Like other large molossids, the Florida bonneted bat's physiological characteristics (*e.g.*, large size, broad jaws, big teeth, large ears) and lower frequency echolocation make it well equipped for finding and taking relatively larger insects and harder prey items (Freeman 1979, entire; 1981, pp. 166–173; Obrist et al. 1993, entire; Aguirre et al. 2003, p. 207; Timm and Genoways 2004, pp. 855–857; Mora and Torres 2008, p. 12).

It is not clear if insect availability is limiting or sufficient; however, if the Florida bonneted bat is similar in its needs to other insectivorous bats, then reduced prey abundance or density could negatively affect the species, affecting survival, growth, and reproduction. We find that foraging habitat sufficient to support insect populations and the seasonal nutritional needs of the bat are essential to its conservation. Protecting natural habitats conducive to insect diversity (Marks 2013, p. 2) is also essential to the Florida bonneted bat's survival.

Sources of drinking water are important for most insectivorous bat species (Kurta et al. 1989b, entire; 1990, pp. 59, 63; Adams and Hayes 2008, pp. 1, 6). Water sources and wetlands also provide important sources and concentrations of prey (Belwood and Fenton 1976, entire; Swift and Racey 1983, entire; Barclay 1991, pp. 174–176; Brigham et al. 1992, entire; Sullivan et al. 1993, entire; Racey et al. 1998, pp. 200–201; Russo and Jones 2003, pp. 197, 201; Nam et al. 2012, p. 1095; Wickramasinghe et al. 2004, p. 1289; Fukui et al. 2006, entire).

Water sources (for drinking, prey, and structure) are important habitat components for the Florida bonneted bat. This species forages over ponds, streams, and wetlands and drink when flying over open water (Marks and Marks 2008a, p. 4; 2008c, p. 3). For

example, in Big Cypress National Preserve the vast majority of Florida bonneted bat calls were recorded in 2014 at one remote pond surrounded by wetland forest (Arwood 2014a–c, pers. comm.). At Picayune Strand State Forest (PSSF), all sites where the species has been detected were located near canals (Smith 2013, pers. comm.). At Florida Panther National Wildlife Refuge, the highest detection of Florida bonneted bat calls occurred in areas with the largest amount of open water (Maehr 2013, pp. 7–11; 2013a–c, pers. comm.). In the Miami area (Richmond pine rocklands (Zoo Miami, Larry and Penny Thompson Park, and the Martinez Preserve)), the species has been detected in a variety of habitat types, but peak activity occurred in areas of artificial freshwater lakes adjacent to intact pine rocklands (Ridgley 2013a–d, pers. comm.).

We find that open water and wetlands provide drinking water, open foraging areas, and concentrations of prey that are essential to the conservation of the species. During dry seasons, bats become more dependent on remaining ponds, streams, and wetland areas for foraging purposes, making these precious resources essential (Marks and Marks 2008c, p. 4; 2008d, p. 3). Because the Florida bonneted bat, like other *Eumops*, appears to be confined to foraging in open spaces due to its wing morphology (Norberg and Rayner 1987, pp. 399–400; Voigt and Holderied 2012, entire), larger water bodies and more open wetlands in general may be structurally better foraging habitat than smaller, more confined areas.

The Florida bonneted bat's physiological or behavioral responses to abiotic factors, such as artificial lighting, have not been specifically studied; however, some information about other bat species' responses to artificial lighting is available for closely related bats and bat species with edge and open space foraging behaviors, similar to those of the Florida bonneted bat. Although edge and open space foraging bat species are considered to generally be more tolerant of artificial lighting than those species foraging in forests, tolerance to artificial light appears to vary among bat species with similar foraging strategies and flight techniques (Rowse et al. 2016, pp. 200–202). Responses to artificial light can vary depending on the development intensity, land use type, and vegetation community where artificial light occurs (Rowse et al. 2016, pp. 200–202; Voigt et al. 2020, pp. 190, 197–199). However, even open space foraging species that are considered to be light-tolerant can be impacted by artificial light, as

evidenced by delays in night-time foraging activity and reduced abundance at foraging sites (Mariton et al. 2022, pp. 6–8). Additionally, urban habitats with artificial lights can act as ecological traps with lower habitat quality for reproduction and potential for lower survival in bat species that are more frequent or abundant in urban habitats (Russo and Ancillotto 2015, pp. 209–210).

Artificial light aversion has been documented in other species closely related to Florida bonneted bat (*i.e.*, within *Molossidae* and/or *Eumops*) (Jung and Kalko 2010, pp. 147–148; Mena et al. 2022, pp. 568–571). Despite increases in research of Florida bonneted bat ecology since the species' listing in 2013, there has been no evidence that Florida bonneted bats exploit artificial light sources, and the highest Florida bonneted bat activity within an urban matrix has been associated with large, dark, open areas with tree cover (Bat Conservation International 2022, p. 18; Ridgley 2023, unpublished data; Ridgley and Gamba-Rios 2023, unpublished data). Artificial lighting has been demonstrated to also have broadscale negative effects on insects and insect populations (*e.g.*, reduced abundance; altered larval development, reproduction, and other behaviors) (van Grunsven et al. 2020, entire; Boyes et al. 2021, entire; Pennisi 2021, entire), potentially reducing the availability of prey (Mariton et al. 2022, pp. 2, 7) and the quality of foraging habitat for Florida bonneted bats. In addition to effects on foraging habitat, artificial lighting can impact roosting habitat quality because light at emergence is thought to disrupt emergence cues and increase predation risk (or perceived predation risk) at emergence for other open-space-foraging and insectivorous bats (Rydell et al. 1996, pp. 249, 251; Mariton et al. 2022, p. 8). Therefore, areas where roosting, foraging, and other natural behaviors, such as commuting, can occur with limited or no impacts from artificial light are important in considering the conservation of the species.

Similarly, temperature requirements and tolerances for the Florida bonneted bat are not fully understood. The species is active year-round and considered semi-tropical (Ober et al. 2016, entire). Florida bonneted bats have been detected in Polk and Osceola Counties (Bailey et al. 2017a, p. 1589), but future surveys in additional counties are needed to help determine the limit of the northern extent of the range. There are low probabilities of occurrence of bonneted bats in areas where historical mean minimum

temperatures dropped below 15 degrees Celsius (°C) (59 degrees Fahrenheit (°F)), which suggests that the species may be limited to southern Florida due to temperature (Bailey et al. 2017a, p. 1591). At this time, the most northern known roost sites are located at Avon Park Air Force Range and its vicinity (Angell and Thompson 2015, entire; B. Myers 2018, pers. comm.; Webb 2018, pers. comm.). Mean monthly temperatures at this location range from 15 to 28 °C (60–83 °F), with an average low of 8.3 °C (47 °F) (January) and an average high of 33.9 °C (93 °F) (July). Prolonged cold temperatures resulted in bonneted bat mortalities at one known colony site in North Fort Myers, Florida, during a severe cold snap in 2010 (Trokey 2010a–b, pers. comm.; 2012a, pers. comm.; see also the discussion of Factor E factors in the final listing rule (78 FR 61004, October 2, 2013, pp. 61033–61034)). Limited data at survey sites in south Florida indicated reduced bat activity under conditions of lower ambient temperatures (Arwood 2014d, pers. comm.). In general, molossids that inhabit the warmer temperate and subtropical zones incur much higher energetic costs for thermoregulation during cold weather events than those inhabiting northern regions (Arlettaz et al. 2000, pp. 1004–1014; see also the discussion of Factor E factors in the final listing rule (78 FR 61004, October 2, 2013, pp. 61033–61034)). As a result, we recognize the species' requirement of subtropical climate conditions for its long-term persistence.

This species is suspected to seasonally vary its use of the northern and southern extent of its known range. This may relate to temperature sensitivity (as described above), different nutritional needs during peak reproductive seasons, or changes in prey availability. Florida bonneted bat detection is positively influenced by Julian date and minimum temperature of the survey night; thus, future monitoring efforts should be focused on warm nights later in the spring to maximize detection probabilities (Bailey et al. 2017a, pp. 1589, 1591). Florida bonneted bats were also “more common in areas with higher historical mean annual rainfall but seemed to prefer areas with lower rainfall during the spring” (Bailey et al. 2017a, p. 1591). The authors concluded that higher detection probabilities observed were likely a result of increased insect abundance due to increased temperatures, humidity, and precipitation influencing the bats' activity (Bailey et al. 2017a, p. 1591). Therefore, we find that seasonal

differences and these other climatological conditions, in addition to temperature, likely influence the species' distribution, habitat requirements, and foraging opportunities, thereby affecting its conservation. Differences in these environmental conditions may occur seasonally or on finer temporal scales.

#### *Habitats With Appropriate Disturbance Regimes*

The Florida bonneted bat not only requires healthy and ecologically diverse habitat, it also needs areas with an appropriate disturbance regime. The Florida bonneted bat's entire range is within the fire-dependent and fire-adapted landscape of central and south Florida (Noss 2018, entire). The species uses fire-dependent vegetation communities for roosting (Belwood 1992, pp. 219–220; Angell and Thompson 2015, entire; Braun de Torrez et al. 2016, p. 240) and foraging (Bailey et al. 2017a, entire; Braun de Torrez et al. 2018a–c, entire). Florida bonneted bats appear to be attracted to recently burned areas (Braun de Torrez et al. 2018a, entire); it appears that Florida bonneted bats are fire-adapted and benefit from prescribed burn programs that closely mimic historical fire regimes. Fires during the historical fire season (*i.e.*, early wet season, April through June) at a moderate frequency (more than 3 to 5 years) appear to optimize habitat for bats in both pine flatwoods and prairies (Braun de Torrez et al. 2018b, pp. 6–9). Fire may result in an increase of suitable roosts (*i.e.*, create more snags and cavities), more open flight space, and increased prey availability (Boyles and Aubrey 2006, pp. 111–113; Armitage and Ober 2012, p. 107–109; O'Keefe and Loeb 2017, p. 271; Braun de Torrez et al. 2018a, p. 1120; 2018b, pp. 8–9).

Fire also has the potential to harm bats through disturbance or destruction of roost trees (Morrison and Raphael 1993, p. 328; Dickinson et al. 2010, pp. 2196–2200). Despite the risks that Florida bonneted bats may abandon roosts, or roosts and pups may be lost during fires, it is critical for fires to occur on the landscape to maintain suitable habitat; precautions can be taken to reduce risks appropriately (see *Inadvertent Impacts from Land Management Practices*, below). Therefore, based on the information in this discussion, we identify areas of diverse habitat types and ecological communities maintained via appropriate disturbance regimes as essential physical or biological features for this species.

#### *Summary of Essential Physical or Biological Features*

We derive the specific physical or biological features essential to the conservation of Florida bonneted bat from studies of the species' habitat, ecology, and life history as described below and further in the Florida Bonneted Bat Conservation Strategy (see Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>) and the proposed and final listing rules (77 FR 60750, October 4, 2012; 78 FR 61004, October 2, 2013). We have determined that the following physical or biological features are essential to the conservation of the Florida bonneted bat:

(1) Habitats with sufficient darkness that provide for roosting and rearing of offspring. Such habitat provides structural features for rest, digestion of food, social interaction, mating, rearing of young, protection from sunlight and adverse weather conditions, and cover to reduce predation risks for adults and young, and is generally characterized by:

(a) Live or dead trees and tree snags, especially longleaf pine, slash pine, bald cypress, and royal palm, that are sufficiently large (in diameter) and tall and that have cavities of a sufficient size for roosts; and

(b) Live or dead trees and tree snags with sufficient cavity height, spacing from adjacent trees, and relative canopy height to provide unobstructed space for Florida bonneted bats to emerge from roost trees; this may include open or semi-open canopy and canopy gaps.

(2) Habitats that provide adequate prey and space for foraging, which may vary widely across the Florida bonneted bat's range, in accordance with ecological conditions, seasons, and disturbance regimes that influence vegetation structure and prey species' distributions. Foraging habitat may be separate and relatively far from roosting habitat. Essential foraging habitat consists of sufficiently dark open areas in or near areas of high insect production or congregation, commonly including, but not limited to:

(a) Freshwater edges and freshwater herbaceous wetlands (permanent or seasonal);

(b) Prairies;

(c) Wetland and upland shrub; and/or

(d) Wetland and upland forests.

(3) A dynamic disturbance regime (*e.g.*, fire, hurricanes, forest management) that maintains and regenerates forested habitat, including plant communities, open habitat structure, and temporary gaps, which is conducive to promoting a continual

supply of roosting sites, prey items, and suitable foraging conditions.

(4) A sufficient quantity and diversity of habitats to enable the species to be resilient to short-term impacts associated with disturbance over time (*e.g.*, drought, forest disease). This quantity and diversity are essential to provide suitable conditions despite temporary alterations to habitat quality. The ecological communities the Florida bonneted bat inhabits differ in hydrology, fire frequency/intensity, climate, prey species, roosting sites, and threats, and include, but are not limited to:

(a) Pine rocklands;

(b) Cypress communities (cypress swamps, strand swamps, domes, sloughs, ponds);

(c) Hydric pine flatwoods (wet flatwoods);

(d) Mesic pine flatwoods; and

(e) High pine.

(5) Habitats that provide structural connectivity where needed to allow for dispersal, gene flow, and natural and adaptive movements, including those that may be necessitated by climate change. These connections may include linear corridors such as vegetated, riverine, or open-water habitat with opportunities for roosting and/or foraging, or patches (*i.e.*, stepping stones) such as tree islands or other isolated natural areas within a matrix of otherwise low-quality habitat.

(6) A subtropical climate that provides tolerable conditions for the species such that normal behavior, successful reproduction, and rearing of offspring are possible.

#### **Special Management Considerations or Protection**

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. Recovery of the Florida bonneted bat will require special management considerations or protection of the essential physical or biological features including passive (*e.g.*, allowing natural processes to occur without intervention) and active (*e.g.*, taking actions to restore and maintain habitat conditions or address threats) management. The features essential to the conservation of this species that may require special management considerations or protection to reduce the threats that are related to inadvertent impacts from land management practices are discussed below.

### Habitat Loss

Habitat loss, degradation, and modification from human population growth and associated development (including infrastructure and energy development) and agriculture have impacted the Florida bonneted bat and are expected to further curtail its limited range (see the Factor A discussion in the final listing rule (78 FR 61004, October 2, 2013, pp. 61026–61030); Bailey et al. 2017a, entire). Based on the expected rates of human population growth and urbanization in southern Florida, nearly all agricultural and private natural lands are predicted to be converted to developed land by 2060 (Zwick and Carr 2006, pp. 15, 18). Of this, approximately 2.6 percent of designated critical habitat (30,716 ac (12,430 ha)) is predicted to be converted to developed land by 2070 (Carr and Zwick 2016, entire). The species occurs, in part, on publicly owned lands that are managed for conservation, ameliorating some of these threats (see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). However, any unknown extant populations of the bat or suitable habitat on private lands or non-conservation public lands are vulnerable to habitat loss and fragmentation. Retaining a habitat network of large and diverse natural areas for conservation purposes in a spatial configuration throughout the Florida bonneted bat's range and actively managing those lands will likely be essential to conservation. In addition, conservation efforts on private lands can help reduce the threats of habitat loss, increasing the potential for long-term survival.

Natural roosting habitat appears to be limiting, and competition for tree cavities is high (see *Competition for Tree Cavities* under the Factor E discussion in the final listing rule (78 FR 61004, October 2, 2013, p. 61034)). To help conserve the Florida bonneted bat, efforts should be made to retain tall trees, cavity trees, trees with hollows or other decay, and snags wherever possible to protect habitat, reduce competition for suitable roosts, and bolster or expand populations within the species' known range (Angell and Thompson 2015, p. 187; Braun de Torrez et al. 2016, pp. 235, 240; Ober et al. 2016, p. 7). The use of artificial structures for the Florida bonneted bat may also be beneficial in some locations, especially where roosting structures are lacking or deficient (see *Use of Artificial Structures (Bat Houses)*

in the final listing rule (78 FR 61004, October 2, 2013, p. 61010)).

Substantial losses in suitable foraging habitats are expected to occur in the coming decades as natural and agricultural areas are converted to other uses and as areas become urbanized (Carr and Zwick 2016, entire; Bailey et al. 2017a, p. 1591). Conservation of natural and semi-natural habitats and restoration with native plants is imperative to help maintain sufficient prey base. Natural habitats conducive to insect diversity should be protected and any pesticides should be used with caution (for more information, see the final listing rule (78 FR 61004; October 2, 2013) under *Life History* (pp. 61005–61006), and *Pesticides and Contaminants* in the Factor E discussion (pp. 61035–61036)).

### Climate Change and Sea Level Rise

The effects resulting from climate change, including sea level rise, saltwater intrusion, and coastal squeeze, are expected to become severe in the future and result in additional habitat losses, including the loss of roost sites and foraging habitat (see the Factor A discussion in the final listing rule (78 FR 61004, October 2, 2013, pp. 61026–61030)). Within the species' range, low-lying areas along the coast are most vulnerable to inundation, and additional areas are likely to experience changes in plant species composition (decline in forested habitat such as cabbage palm forests, pine rockland, and coastal hardwood hammocks). Occupied Florida bonneted bat habitat located near the coast in south Florida (e.g., Collier, Lee, Miami-Dade, Monroe, Charlotte, Desoto, and Sarasota Counties) will be vulnerable to inundation and/or saltwater intrusion as sea levels rise. Based on source data used by the National Oceanic and Atmospheric Administration (NOAA) Sea Level Rise map viewer, an estimated 8.7 percent (100,840 ac (40,809 ha)) of the designated occupied habitat area is projected to be inundated by 6 feet of salt water around 2070 (sea level rise plus tidal flooding; Sweet et al. 2017, entire; Sweet et al. 2018, entire; Sweet et al. 2019, entire; Sweet et al. 2022, entire). In addition, data from Florida's statewide digital elevation model (University of Florida (UF) GeoPlan Center 2017, entire) indicate that an additional 14.3 percent (166,257 ac (67,282 ha)) of designated occupied habitat outside of the areas mapped by NOAA are at or below 6 feet in elevation and may also be affected by sea level rise (this does not include area in Unit 1 due to the unlikelihood of sea level rise impacts). Although we are unable to

accurately estimate the extent of other climate change-related effects, we expect additional occupied habitat will be impacted by saltwater intrusion, drier conditions, and increased variability in precipitation, likely resulting in changes to vegetation composition and prey availability, decreased forest regeneration, and potential increases in wildfire frequency, severity, and scale (for more information, see the final listing rule (78 FR 61004; October 2, 2013) under the discussion of Factor A in *Land Use Changes and Human Population Growth* (pp. 61026–61027) and *Climate Change and Sea Level Rise* (pp. 61028–61029)). The trend toward higher temperatures and lower rainfall (or shifts in rainfall patterns) could result in the degradation of wetlands and other important open water habitats, or complete loss of affected foraging areas if drought-like conditions persist. Actual impacts may be greater or less than anticipated based upon high variability of factors involved (e.g., sea level rise, human population growth) and assumptions made.

As a result of these impacts and other causes of habitat loss and degradation, the essential physical or biological features for the Florida bonneted bat may no longer be available in some areas, and the amount of suitable occupied Florida bonneted bat habitat is likely to shrink dramatically in the future. Habitat loss from sea level rise and saltwater intrusion will be greatest in areas closer to the coast and is likely to result in the loss of some bonneted bat populations, such as those in eastern Miami-Dade County, reducing the species' ability to withstand catastrophic events (*i.e.*, redundancy). We anticipate additional populations near the coast will be reduced in size, such as those in Charlotte, Lee, Collier, Monroe, and remaining areas in Miami-Dade Counties, resulting in decreased overall health and fitness (*i.e.*, resiliency) of those populations. Further, most of the remaining bat populations face similar threats and pressures (e.g., development pressure, effects of climate change, coastal squeeze, droughts, hurricanes) that are expected to reduce their resiliency. This limits the species' ability to recover from population declines when many populations are similarly affected. However, we lack certainty as to the severity of impacts the effects of sea level rise may have on the Florida bonneted bat's critical habitat.

Directly addressing sea level rise is beyond the control of landowners or managers. However, while landowners or land managers may not be able to prevent these events, they may be able

to respond with management or protection. Management actions or activities that could ameliorate the effects of sea level rise on the Florida bonneted bat (*i.e.*, loss and degradation of habitats that provide for roosting or foraging, especially those areas closer to the coast) include providing protection of inland or higher elevation suitable habitats (*e.g.*, in the northern portion of the bat's range) that are predicted to be unaffected or less affected by sea level rise, or habitat restoration or enhancement of these areas.

#### *Environmental Stochasticity*

Hurricanes, storm surges, and other catastrophic and stochastic events are of significant concern (for more information, see final listing rule (78 FR 61004; October 2, 2013) under the discussion of Factor E in *Environmental Stochasticity* (pp. 61037–61039) and *Aspects of the Species' Life History and Climate Change Implications* (p. 61039)). In 2017 alone, at least four known roost trees were impacted by Hurricane Irma. While landowners or land managers cannot prevent these events, they may be able to respond with protection or management that can help reduce some effects or facilitate recovery from these events. Retention of large trees and snags wherever possible in multiple locations can help provide valuable roosting habitat throughout the species' range (Braun de Torrez et al. 2016, pp. 235, 240; Ober et al. 2016, p. 7). Management actions or activities that could enhance forest recovery following storms may include hand or mechanical removal of damaged vegetation or prescribed fire, if or when conditions are suitable. If large trees, cavity trees, trees with hollows or other decay, or snags need to be removed due to safety issues, visual or other inspection should occur to ensure that active roosts are not removed in this process.

Artificial structures could potentially help provide roosting opportunities in areas impacted by stochastic events or where suitable natural roosts are lacking or deficient. More research on the role of bat houses in bonneted bat conservation is needed, especially given the bat's social structure (FWC 2013, pp. 11–12; Ober et al. 2016, p. 7). If used, bat houses should be appropriately designed, placed, maintained, and monitored; such structures may also need to be reinforced and duplicated to prevent loss. If an occupied area is severely impacted, causing major losses of suitable natural roosts, the use of artificial structures could be explored as one possible option to help regain lost roosting capacity.

#### *Pesticides and Contaminants*

More study is needed to fully assess the risk that pesticides (particularly insecticides) and contaminants pose to the Florida bonneted bat (see *Pesticides and Contaminants* under the Factor E discussion in the final listing rule (78 FR 61004, October 2, 2013, pp. 61035–61036)). Although data are lacking, the species may be exposed to a variety of compounds through multiple routes of exposure. Areas with intensive pesticide activity may not support an adequate food base. Foraging habitat can be enhanced, in part, by limiting the use of pesticides, including agrochemicals (chemicals used in agriculture) (Russo and Jones 2003, pp. 206–207; Wickramasinghe et al. 2003, pp. 991–992; Wickramasinghe et al. 2004, entire). While exposure to some contaminants (*e.g.*, mercury) may be beyond the realm of what individuals or agencies can rectify, risks from pesticides can be partially reduced at the local level. For example, landowners and land managers can help reduce some risks of exposure and improve foraging conditions for the Florida bonneted bat by avoiding or limiting use of insecticides (*e.g.*, mosquito control, agricultural), wherever possible, and especially in areas known to be occupied by the Florida bonneted bat. An increased occurrence of bonneted bats was found in agricultural areas and was attributed to a combination of insect abundance in these areas and the species' ability to forage in open spaces (Bailey et al. 2017a, pp. 1589, 1591). It is reasonable to assume that prey base (*i.e.*, availability, abundance, and diversity of insects) would be more plentiful with reduction of insecticides, where possible. If pesticides cannot be avoided, ways to reduce impacts should be explored. Protecting natural and semi-natural habitats that support insect diversity can also improve foraging conditions and contribute to conservation.

#### *Ecological Light Pollution*

The Florida bonneted bat's behavioral response to ecological light pollution has not specifically been examined (see *Ecological Light Pollution* under the Factor E discussion in the final listing rule (78 FR 61004, October 2, 2013, p. 61036)); however, there is evidence of closely related and other open space foraging bat species avoiding artificial lighting and of the Florida bonneted bat preferring darker landscapes within an urban matrix (Jung and Kalko 2010, pp. 147–148; Bat Conservation International 2022, p. 18; Mena et al. 2022, pp. 568–571). Artificial lighting can impact

roosting habitat quality as light at emergence can disrupt emergence cues and may increase predation risk (or perceived predation risk) for other open space foraging and insectivorous bats (Rydell et al. 1996, pp. 249, 251; Mariton et al. 2022, p. 8). Similarly, lighting can restrict habitat connectivity and fragment foraging areas (Voigt et al. 2020, pp. 197–199).

Artificial lighting can also affect the abundance and availability of insects (van Grunsven et al. 2020, entire; Boyes et al. 2021, entire; Pennisi 2021, entire; Mariton et al. 2022, p. 2, 7), thereby reducing the quality of foraging habitat for Florida bonneted bats. Thus, at this time, we consider ecological light pollution a potential threat to the Florida bonneted bat and its habitat. Management actions or activities that could ameliorate ecological light pollution include avoiding and minimizing the use of artificial lighting, retaining natural light conditions, and promoting the use of environmentally friendly lighting practices to minimize impacts to wildlife (*e.g.*, Voigt et al. 2018, entire).

#### *Inadvertent Impacts From Land Management Practices*

Forest management can help maintain and improve the Florida bonneted bat's roosting and foraging habitat (see *Use of Forests and Other Natural Areas* in the final listing rule (78 FR 61004, October 2, 2013, pp. 61007–61010)), and a lack of forest management, including a lack of prescribed fire or invasive plant control, can be detrimental to the species. For example, prescribed burns may benefit Florida bonneted bats by improving habitat structure, enhancing the prey base, and creating openings; restoration of fire to fire-dependent forests may improve foraging habitat for this species and create snags (Carter et al. 2000, p. 139; Boyles and Aubrey 2006, pp. 111–113; Lacki et al. 2009, entire; Armitage and Ober 2012, pp. 107–109; FWC 2013, pp. 9–11; Ober and McCleery 2014, pp. 1–3; Braun de Torrez et al. 2018a–b, entire).

Fire is a vital component in maintaining suitable Florida bonneted bat habitat (Braun de Torrez et al. 2018b, entire), and while many prescribed fire and other land management practices mimic natural processes and benefit native species on broad spatial and temporal scales, these activities can result in inadvertent negative impacts in the near term. For example, extensive removal of trees with cavities or hollows during activities associated with forest management, fuel reduction, vista management, off-road vehicle trail

maintenance, prescribed fire, or habitat restoration may inadvertently remove roost sites or reduce the availability of roost sites (see *Land Management Practices* in the final listing rule (78 FR 61004, October 2, 2013, p. 61027)).

The features essential to the conservation of the Florida bonneted bat may require special management considerations or protection to reduce threats and conserve these features. Actions that could ameliorate threats include, but are not limited to:

(1) Retaining and actively managing a habitat network of large and diverse conservation lands throughout the Florida bonneted bat's range;

(2) Protecting, restoring, or enhancing inland or higher elevation habitats that are predicted to be unaffected or less affected by sea level rise;

(3) Protecting habitats that support high insect diversity and abundance, and avoiding the excessive use of pesticides wherever possible;

(4) Retaining potential roost trees and snags (see *Cover or Shelter*, above); and

(5) Developing and implementing specific guidelines (see the Florida Bonneted Bat Consultation Guidelines under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>) to minimize impacts of activities associated with hurricane clean-up, prescribed fire, invasive species management, forest management, and development.

### Conservation Strategy and Selection Criteria Used To Identify Critical Habitat

#### Conservation Strategy

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. We are not designating any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the definition of critical habitat. The occupied areas identified encompass the varying types and distribution of habitat needed by the species and provide sufficient habitat to allow for maintaining and potentially expanding the populations.

To determine and select appropriate occupied areas that contain the physical or biological features essential to the conservation of the species or unoccupied areas otherwise essential for the conservation of the Florida bonneted bat, we incorporated information from the conservation strategy for the species. The goal of our conservation strategy for the Florida bonneted bat is to recover the species to the point where the protections of the Act are no longer necessary. The role of critical habitat in achieving this conservation goal is to identify the specific areas within the Florida bonneted bat's range that provide essential physical or biological features without which the Florida bonneted bat's rangewide resiliency, redundancy, and representation could not be achieved. Specifically, this conservation strategy helped identify those areas within the Florida bonneted bat's range that contain the physical or biological features without which rangewide resiliency, redundancy, and representation could not be achieved. Our conservation strategy identified goals, from which we developed the following six critical habitat criteria for determining the specific areas that contain the physical or biological features essential to the conservation of the species:

(1) Genetic diversity—To maintain viable populations in each of the known genetically differentiated areas (see *Space for Individual and Population Growth and for Normal Behavior*, above), critical habitat should include one unit within each of the four genetically differentiated populations.

(2) Geographic extent—To maintain viable populations that are distributed across the geographic range of the Florida bonneted bat (see *Current Distribution* in the final listing rule (78 FR 61004, October 2, 2013, pp. 61010–61011)), critical habitat units should represent the extent of the species' existing known range.

(3) Ecological diversity—To maintain at least one viable population in each major ecological community that provides roosting habitat for the Florida bonneted bat (see *Habitats with Appropriate Disturbance Regimes*, above), these community types should be well represented in critical habitat units.

(4) Climate change resilience—To maintain at least one viable population in suitable habitat predicted to be unaffected or less affected by sea level rise and climate change, critical habitat should include one unit in the northern, inland portion of the Florida bonneted bat's range.

(5) High conservation value (HCV) habitat—To maintain sufficient habitat with HCV that supports the life history of the species within each population, critical habitat units should incorporate multiple areas that support roosting and foraging needs and that have HCV (as informed by habitat analysis results and telemetry data).

(6) Structural connectivity—To maintain, enhance, and reestablish connectivity within and between Florida bonneted bat populations, critical habitat units should be configured within the central and south Florida landscape to provide connectivity based on the best available movement data for the species (see *Space for Individual and Population Growth and for Normal Behavior*, above).

#### Selection Criteria and Methodology Used to Identify Critical Habitat

To delineate the specific areas that are occupied by the species and that contain the physical or biological features essential to the Florida bonneted bat's conservation, we conducted a habitat analysis.

Acknowledging some limitations in the information available, we used the best available data to conduct our habitat analysis (see Florida Bonneted Bat Habitat Analysis under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>). Information used in the habitat analysis and/or the delineation of critical habitat units consists of the following:

(1) Confirmed presence data compiled in our Geographic Information System (GIS) database from 2003 through 2021, and provided by FWC, UF, and other various sources, including survey reports, databases, and publications;

(2) Vegetation cover types from the Cooperative Land Cover map (CLC; version 3.4) developed by FWC and Florida Natural Areas Inventory;

(3) Canopy height from the global forest canopy height map (2019) developed by Global Land Analysis and Discovery;

(4) Red-cockaded woodpecker (*Picoides borealis*) potential habitat (2016) developed by FWC, based on evidence indicating Florida bonneted bats use woodpecker cavities for roosting;

(5) Artificial sky luminance from the New World Atlas of Artificial Sky Brightness developed by the Light Pollution Science and Technology Institute (Falchi et al. 2016, entire);

(6) Fire frequency data provided by the Monitoring Trends in Burn Severity program;

(7) Urban development data (2010 baseline) from the Florida 2070 project developed by the Florida Department of Agriculture and Consumer Services, the UF GeoPlan Center, and 1000 Friends of Florida;

(8) Maps of unpublished telemetry data collected and provided by UF and FWC; and

(9) ArcGIS online basemap aerial imagery (2018–2020) to cross-check CLC data and ensure the presence of physical or biological features.

To help identify potential factors affecting Florida bonneted bat use, we conducted a spatial analysis to quantify relationships of habitat-related and other environmental variables with species occurrence (see Florida Bonneted Bat Habitat Analysis under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). Available presence data incorporated into the analysis primarily consisted of acoustic data, as well as locations of known roosts. Maps of telemetry locations were used to inform our evaluation of HCV areas but were not part of the habitat analysis dataset because coordinate data were not available at the time. We identified 10 covariates that related to habitat types (e.g., pine/cypress) and other factors (e.g., fire history) thought to influence habitat suitability and use by the Florida bonneted bat and modeled those at three spatial scales (see Florida Bonneted Bat Habitat Analysis under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). Model output included predictive maps representing the probability of species occurrence based on the covariates included in the final models, and we used these maps to characterize the relative habitat suitability and conservation value of areas within central and south Florida. We also conducted sensitivity/specificity analyses to identify an objective threshold value for each model, which we then applied to identify areas with high conservation value to the species. For full details of our methodology and results, including links to data sources used, see the Florida Bonneted Bat Habitat Analysis under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>.

We considered the model output and the conservation strategy to determine the specific areas occupied by the species on which are found the physical

or biological features that are essential to the Florida bonneted bat. Those specific areas (critical habitat units) were identified and delineated using the following steps:

(1) We identified areas having high conservation value (as described above) for the Florida bonneted bat based on model output because those areas are likely to contain the combination of characteristics that we have determined are essential physical or biological features for the Florida bonneted bat.

(2) We refined these areas to eliminate any unsuitable or less suitable areas that are unlikely to contain features essential to the conservation of the species based on the Florida bonneted bat's biology (e.g., temperature requirements) and aerial imagery.

(3) We considered telemetry maps and certain critical habitat criteria that were not incorporated into the models (e.g., connectivity). Where telemetry maps indicated high use (e.g., HCV foraging habitat), or where additional area was needed to ensure sufficient connectivity, we delineated additional habitat using CLC data and aerial imagery and based on model output and covariate relationships identified in our habitat analysis.

(4) We evaluated the resulting units to determine whether occupied habitat is adequate to ensure conservation of the species. We specifically evaluated occupied units to ensure they fulfill all critical habitat criteria and meet the goals and objectives in our conservation strategy for identifying the areas that contain the features that are essential to the Florida bonneted bat. Based on our determination that occupied areas are sufficient for the conservation of the species, no unoccupied habitat is included in this critical habitat designation.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the Florida bonneted bat. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this rule have been excluded by text and are not designated as critical habitat. Therefore, a Federal action involving these lands would not trigger section 7

consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We are designating as critical habitat areas that we have determined are occupied at the time of listing (*i.e.*, currently occupied) and that contain one or more of the physical or biological features that are essential to support life-history processes of the species. We considered areas occupied at the time of listing if they have documented presence of Florida bonneted bats from October 2013 through 2021. Due to the species' life span and high site fidelity, it is reasonable to conclude that these areas found to be occupied in 2013 to 2021 would have been inhabited by Florida bonneted bats when the species was listed in 2013. Each critical habitat unit contains all the identified physical or biological features essential to the conservation of the species.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Regulation Promulgation. We include more-detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on <https://www.regulations.gov> at Docket No. FWS–R4–ES–2019–0106 and at the Florida bonneted bat species web page at <https://www.fws.gov/species/florida-bonneted-bat-eumops-floridanus>.

#### Final Critical Habitat Designation

We are designating nine units as critical habitat for the Florida bonneted bat. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Florida bonneted bat. The nine areas we designate as critical habitat are: (1) Kissimmee Unit, (2) Peace River Unit, (3) Babcock Unit, (4) Fisheating Creek Unit, (5) Corkscrew Unit, (6) Big Cypress Unit, (7) Everglades Tree Islands Unit, (8) Long Pine Key Unit, and (9) Miami Rocklands Unit. All nine units are occupied by the species. Table 1, below, shows the units and the approximate area of each unit/subunit within each land ownership category.



TABLE 1—FINAL CRITICAL HABITAT UNITS AND SUBUNITS FOR THE FLORIDA BONNETED BAT, INCLUDING ACRES (ac) AND HECTARES (ha) BY LAND OWNERSHIP CATEGORY

[Area estimates reflect all land within critical habitat unit boundaries, and land ownership was determined using the most recent parcel data provided by each county. All units are occupied]

| Critical habitat unit/subunit    | Land ownership: ac (ha) |          |         |       |               |              | Total area:<br>ac (ha) |
|----------------------------------|-------------------------|----------|---------|-------|---------------|--------------|------------------------|
|                                  | Federal                 | State    | County  | Local | Private/other | Unidentified |                        |
| 1. Kissimmee .....               | 99                      | 137,283  | 834     | 0     | 35,455        | 2,065        | 175,735                |
|                                  | (40)                    | (55,556) | (338)   |       | (14,348)      | (836)        | (71,118)               |
| 1A .....                         | 90                      | 136,846  | 629     | 0     | 29,701        | 2,065        | 169,331                |
|                                  | (36)                    | (55,380) | (255)   |       | (12,020)      | (836)        | (68,526)               |
| 1B .....                         | 9                       | 437      | 205     | 0     | 5,753         | <1           | 6,404                  |
|                                  | (4)                     | (177)    | (83)    |       | (2,328)       |              | (2,592)                |
| 2. Peace River .....             | 32                      | 6,369    | 710     | 165   | 18,874        | 1,897        | 28,046                 |
|                                  | (13)                    | (2,577)  | (287)   | (67)  | (7,638)       | (768)        | (11,350)               |
| 2A .....                         | 0                       | 0        | 0       | 0     | 2,603         | 0            | 2,603                  |
|                                  |                         |          |         |       | (1,053)       |              | (1,053)                |
| 2B .....                         | 0                       | 0        | 0       | 0     | 5,478         | 200          | 5,678                  |
|                                  |                         |          |         |       | (2,217)       | (81)         | (2,298)                |
| 2C .....                         | 0                       | 0        | 0       | 0     | 2,029         | 2            | 2,031                  |
|                                  |                         |          |         |       | (821)         | (1)          | (822)                  |
| 2D .....                         | 32                      | 6,369    | 710     | 165   | 8,765         | 1,694        | 17,734                 |
|                                  | (13)                    | (2,577)  | (287)   | (67)  | (3,547)       | (686)        | (7,177)                |
| 3. Babcock .....                 | 0                       | 108,748  | 1,843   | 19    | 23,739        | 328          | 134,677                |
|                                  |                         | (44,009) | (746)   | (8)   | (9,607)       | (133)        | (54,502)               |
| 3A .....                         | 0                       | 80,238   | 782     | 19    | 7,193         | 328          | 88,559                 |
|                                  |                         | (32,471) | (316)   | (8)   | (2,911)       | (133)        | (35,839)               |
| 3B .....                         | 0                       | 28,510   | 1,062   | 0     | 16,546        | 0            | 46,118                 |
|                                  |                         | (11,538) | (430)   |       | (6,696)       |              | (18,663)               |
| 4. Fisheating Creek .....        | 0                       | 7,689    | <1      | 0     | 5,300         | 6            | 12,995                 |
|                                  |                         | (3,112)  |         |       | (2,145)       | (2)          | (5,259)                |
| 5. Corkscrew .....               | 0                       | 26,313   | 5,188   | 0     | 17,324        | 41           | 48,865                 |
|                                  |                         | (10,648) | (2,100) |       | (7,011)       | (16)         | (19,775)               |
| 6. Big Cypress .....             | 533,227                 | 152,559  | 8,421   | 229   | 16,011        | 3,638        | 714,085                |
|                                  | (215,789)               | (61,738) | (3,408) | (93)  | (6,480)       | (1,472)      | (288,980)              |
| 7. Everglades Tree Islands ..... | 16,596                  | 1        | 4       | 0     | 2             | 1            | 16,604                 |
|                                  | (6,716)                 | (1)      | (2)     |       | (1)           | (1)          | (6,719)                |
| 8. Long Pine Key .....           | 25,147                  | 2 (1)    | 0       | 0     | 187           | 0            | 25,337                 |
|                                  | (10,177)                |          |         |       | (76)          |              | (10,253)               |
| 9. Miami Rocklands .....         | 603                     | 785      | 2,458   | 8 (3) | 381           | 46           | 4,281                  |
|                                  | (244)                   | (318)    | (995)   |       | (154)         | (19)         | (1,732)                |
| 9A .....                         | 0                       | 0        | 52      | 0     | 0             | 1            | 53                     |
|                                  |                         |          | (21)    |       |               | (<1)         | (21)                   |
| 9B .....                         | 0                       | 0        | 104     | 0     | 0             | 1            | 104                    |
|                                  |                         |          | (42)    |       |               | (<1)         | (42)                   |
| 9C .....                         | 0                       | 0        | 5       | 0     | 0             | 0            | 5                      |
|                                  |                         |          | (2)     |       |               |              | (2)                    |
| 9D .....                         | 0                       | 0        | 0       | 0     | 28            | <1           | 28                     |
|                                  |                         |          |         |       | (11)          |              | (12)                   |
| 9E .....                         | 0                       | 21       | 230     | <1    | 13            | 2            | 267                    |
|                                  |                         | (9)      | (93)    |       | (5)           | (1)          | (108)                  |
| 9F .....                         | 140                     | 0        | <1      | 0     | <1            | 0            | 140                    |
|                                  | (57)                    |          |         |       |               |              | (57)                   |
| 9G .....                         | 0                       | 8        | 0       | 0     | 19            | <1           | 28                     |
|                                  |                         | (3)      |         |       | (8)           |              | (11)                   |
| 9H .....                         | 0                       | 235      | 0       | 0     | 0             | 3            | 238                    |
|                                  |                         | (95)     |         |       |               | (1)          | (96)                   |
| 9I .....                         | 0                       | 0        | 22      | 0     | 0             | 0            | 22                     |
|                                  |                         |          | (9)     |       |               |              | (9)                    |
| 9J .....                         | 0                       | 60       | <1      | 8     | 28            | 3            | 99                     |
|                                  |                         | (24)     |         | (3)   | (11)          | (1)          | (40)                   |
| 9K .....                         | 0                       | 26       | 11      | 0     | 0             | 0            | 37                     |
|                                  |                         | (10)     | (4)     |       |               |              | (15)                   |
| 9L .....                         | 0                       | 77       | <1      | 0     | <1            | 0            | 77                     |
|                                  |                         | (31)     |         |       |               |              | (31)                   |
| 9M .....                         | 0                       | 0        | 123     | 0     | 0             | 0            | 123                    |
|                                  |                         |          | (50)    |       |               |              | (50)                   |
| 9N .....                         | 0                       | 28       | 0       | 0     | <1            | 0            | 28                     |
|                                  |                         | (11)     |         |       |               |              | (11)                   |
| 9O .....                         | 462                     | 0        | 1,215   | 0     | 22            | 1            | 1,700                  |
|                                  | (187)                   |          | (492)   |       | (9)           | (<1)         | (688)                  |
| 9P .....                         | 0                       | 48       | 0       | 0     | 13            | <1           | 61                     |
|                                  |                         | (19)     |         |       | (5)           |              | (25)                   |
| 9Q .....                         | 0                       | <1       | 7       | 0     | 7             | 0            | 14                     |
|                                  |                         |          | (3)     |       | (3)           |              | (6)                    |
| 9R .....                         | 0                       | 36       | 22      | 0     | 14            | 8            | 80                     |
|                                  |                         | (15)     | (9)     |       | (6)           | (3)          | (32)                   |
| 9S .....                         | 0                       | 34       | 63      | 0     | 35            | 2            | 135                    |
|                                  |                         | (14)     | (26)    |       | (14)          | (1)          | (55)                   |
| 9T .....                         | 0                       | 10       | 0       | 0     | 25            | <1           | 36                     |
|                                  |                         | (4)      |         |       | (10)          |              | (14)                   |
| 9U .....                         | 0                       | 18       | 4       | 0     | 1             | <1           | 23                     |
|                                  |                         | (7)      | (2)     |       | (<1)          |              | (9)                    |

TABLE 1—FINAL CRITICAL HABITAT UNITS AND SUBUNITS FOR THE FLORIDA BONNETED BAT, INCLUDING ACRES (ac) AND HECTARES (ha) BY LAND OWNERSHIP CATEGORY—Continued

[Area estimates reflect all land within critical habitat unit boundaries, and land ownership was determined using the most recent parcel data provided by each county. All units are occupied]

| Critical habitat unit/subunit | Land ownership: ac (ha) |                      |                   |              |                     |                  | Total area:<br>ac (ha) |
|-------------------------------|-------------------------|----------------------|-------------------|--------------|---------------------|------------------|------------------------|
|                               | Federal                 | State                | County            | Local        | Private/other       | Unidentified     |                        |
| 9V .....                      | 0                       | 0                    | 0                 | 0            | 30<br>(12)          | 1<br>(1)         | 31<br>(13)             |
| 9W .....                      | 0                       | 9<br>(4)             | 103<br>(42)       | 0            | <1                  | <1               | 112<br>(45)            |
| 9X .....                      | 0                       | 0                    | 10<br>(4)         | 0            | 20<br>(8)           | <1               | 30<br>(12)             |
| 9Y .....                      | 0                       | 0                    | 18<br>(7)         | 0            | 11<br>(4)           | 4<br>(1)         | 32<br>(13)             |
| 9Z .....                      | 0                       | 0                    | 28<br>(11)        | 0            | <1                  | 3<br>(1)         | 31<br>(13)             |
| 9AA .....                     | 0                       | 22<br>(9)            | 24<br>(10)        | 0            | 37<br>(15)          | 0                | 84<br>(34)             |
| 9BB .....                     | 0                       | 0                    | 19<br>(8)         | 0            | 23<br>(9)           | 1<br>( $<1$ )    | 43<br>(17)             |
| 9CC .....                     | 0                       | 0                    | 9<br>(4)          | 0            | 15<br>(6)           | <1               | 24<br>(10)             |
| 9DD .....                     | 0                       | 19<br>(8)            | 0                 | 0            | 0                   | 0                | 19<br>(8)              |
| 9EE .....                     | 0                       | 12<br>(5)            | <1                | 0            | 1<br>( $<1$ )       | 5<br>(2)         | 18<br>(7)              |
| 9FF .....                     | 0                       | 0                    | 39<br>(16)        | 0            | <1                  | 0                | 39<br>(16)             |
| 9GG .....                     | 0                       | 81<br>(33)           | 240<br>(97)       | 0            | 28<br>(12)          | 1<br>( $<1$ )    | 351<br>(142)           |
| 9HH .....                     | 0                       | 22<br>(9)            | 0                 | 0            | <1                  | 0                | 22<br>(9)              |
| 9II .....                     | 0                       | 18<br>(7)            | 5<br>(2)          | 0            | 10<br>(4)           | 6<br>(2)         | 39<br>(16)             |
| 9JJ .....                     | <1                      | 0                    | 105<br>(42)       | 0            | 0                   | 2<br>(1)         | 108<br>(44)            |
| Total .....                   | 575,703<br>(232,979)    | 439,750<br>(177,960) | 19,459<br>(7,875) | 421<br>(170) | 117,272<br>(47,458) | 8,021<br>(3,246) | 1,160,625<br>(469,688) |

**Note:** Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the Florida bonneted bat, below.

#### Unit 1: Kissimmee Unit

Unit 1 encompasses 175,735 ac (71,118 ha) of lands in Polk, Osceola, Highlands, and Okeechobee Counties, Florida. This unit consists of two subunits generally located along the eastern bank of Lake Kissimmee northeast to SR-192, north of SR-60; and along portions of the Kissimmee River, south of SR-60. Unit 1 predominately consists of State-owned conservation lands (137,283 ac (55,556 ha)) and private lands (35,455 ac (14,348 ha)). The largest conservation landholdings within this unit include Kissimmee Prairie Preserve State Park, Three Lakes WMA, Herky Huffman/Bull Creek WMA, Triple N Ranch WMA, and South Florida Water Management District lands along the Kissimmee River. Other smaller conservation lands also occur within this unit (for more information, see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on

<https://www.regulations.gov>). We excluded approximately 1.25 ac (0.5 ha) of Tribal lands (Miccosukee Tribe of Florida) that occur within Subunit 1B from this final critical habitat designation (see *Exclusions Based on Other Relevant Impacts*, below).

Unit 1 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. The Kissimmee Unit represents the northern extent of the species' range and provides resiliency against the expected impacts from habitat loss due to climate change as the unit includes areas considered less vulnerable to these effects. Habitat in this unit provides ecological diversity (*i.e.*, high pine and mesic flatwoods) and includes areas identified as having HCV, specifically high-quality roosting habitat (*e.g.*, potential roost trees, red-cockaded woodpecker activity in the area) and foraging habitat (*e.g.*, open water, abundant prey). In addition, the Florida bonneted bats in this area are genetically differentiated from those occurring elsewhere in the range (Austin et al. 2022, entire), and thus

contribute to the genetic diversity of the overall population.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 1 may require special management considerations or protection due to the following threats: Habitat loss and fragmentation from changes in land use (*e.g.*, land clearing for residential/commercial development); lack of habitat management and/or inadvertent impacts from these habitat management practices (*e.g.*, prescribed fire, snag removal); and excessive pesticide use (see Special Management Considerations or Protection, above).

Under section 4(a)(3)(B)(i) of the Act, we are exempting Avon Park Air Force Range lands (99,523 ac (40,276 ha)) from the critical habitat designation because the U.S. Air Force has an approved integrated natural resources management plan (INRMP) that provides benefits to the Florida bonneted bat and its habitat (see Exemptions, below, for more detailed information).

#### Unit 2: Peace River Unit

Unit 2 encompasses 28,046 ac (11,350 ha) of lands in Hardee, DeSoto, and

Charlotte Counties, Florida. This unit consists of four subunits located along portions of the Peace River and its tributaries (*e.g.*, Shell Creek, Charlie Creek), south of CR-64 with the majority west of U.S.-17. Unit 2 predominately consists of privately owned lands (18,874 ac (7,638 ha)) and State-owned conservation lands (6,369 ac (2,577 ha)). The largest conservation landholdings within this unit include the Peace River State Forest and the Deep Creek Preserve. Other smaller conservation lands also occur within this unit (for more information, see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>).

Unit 2 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. The Peace River Unit encompasses a known movement corridor (generally connecting Units 1 and 3), allowing gene flow between these populations, and includes areas identified as having HCV, specifically high-quality foraging habitat along the Peace River and adjacent forested lands that provide open water and abundant prey. In addition, this unit adds ecological diversity (a natural river corridor) to the overall designation.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 2 may require special management considerations or protection due to the following threats: Habitat loss, fragmentation, or degradation from changes in land use (*e.g.*, land clearing for residential/commercial development); lack of habitat management and/or inadvertent impacts from land management practices (*e.g.*, prescribed fire, snag removal); excessive pesticide use; and climate change (*e.g.*, sea level rise/inundation, saltwater intrusion, habitat alteration/degradation) (see Special Management Considerations or Protection, above).

#### *Unit 3: Babcock Unit*

Unit 3 encompasses 134,677 ac (54,502 ha) of lands in Charlotte, Lee, and Glades Counties, Florida. This unit consists of two subunits, with the majority of Unit 3 located in Charlotte County, east of I-75; other portions are in northwestern Lee and western Glades Counties. This unit predominately consists of State-owned conservation lands (108,748 ac (44,009 ha)) and

private lands (23,739 ac (9,607 ha)). The largest conservation landholdings within this unit are Babcock-Webb WMA and Babcock Ranch Preserve; other smaller conservation lands also occur within this unit (for more information, see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>).

Unit 3 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. Habitat in the Babcock Unit provides ecological diversity (*i.e.*, hydric and mesic flatwoods) and includes areas identified as having HCV, specifically superior roosting and foraging habitat. Babcock-Webb WMA and surrounding areas support a large population of Florida bonneted bats and many of the known roost sites. In addition, the Florida bonneted bats in this westernmost extent of the species' range are genetically differentiated from those occurring elsewhere in the range (Austin et al. 2022, entire), thus contributing to the genetic diversity of the overall population.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 3 may require special management considerations or protection due to the following threats: Habitat loss, fragmentation, or degradation from changes in land use (*e.g.*, land clearing for residential/commercial development); lack of habitat management and/or inadvertent impacts from land management practices (*e.g.*, prescribed fire, snag removal); excessive pesticide use; and climate change (*e.g.*, sea level rise/inundation, saltwater intrusion, habitat alteration/degradation) (see Special Management Considerations or Protection, above).

#### *Unit 4: Fisheating Creek Unit*

Unit 4 encompasses 12,995 ac (5,259 ha) of lands in Glades and Highlands Counties, Florida. The majority of Unit 4 is located in Glades County, west of US-27; the remaining portion of the unit extends north into southern Highlands County. This unit predominately consists of State-owned conservation lands (7,689 ac (3,112 ha)) and private lands (5,300 ac (2,145 ha)). Conservation landholdings within this unit are Fisheating Creek WMA, Fisheating Creek/Lykes Brothers Conservation Easement, and Platt

Branch Wildlife and Environmental Area.

Unit 4 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. High-quality foraging habitat along Fisheating Creek and adjacent forested lands provide open water and abundant prey. This unit serves as important foraging habitat connecting bats traveling between Unit 3 and areas to the north and east, and, along with Unit 2, this unit adds ecological diversity (natural river corridors) to the overall designation.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 4 may require special management considerations or protection due to the following threats: Habitat loss, fragmentation, or degradation from changes in land use (*e.g.*, land clearing for residential/commercial development); lack of habitat management and/or inadvertent impacts from land management practices (*e.g.*, prescribed fire, snag removal, hydrologic restoration); excessive pesticide use; and climate change (*e.g.*, sea level rise/inundation, saltwater intrusion, habitat alteration/degradation) (see Special Management Considerations or Protection, above).

#### *Unit 5: Corkscrew Unit*

Unit 5 encompasses 48,865 ac (19,775 ha) of lands in Lee and Collier Counties, Florida. This unit straddles the Lee/Collier county line, east of I-75, and predominately consists of State-owned conservation lands (26,313 ac (10,648 ha)) and private lands (17,324 ac (7,011 ha)). The largest conservation landholdings within this unit are Corkscrew Regional Ecosystem Watershed and the National Audubon Society's Corkscrew Swamp Sanctuary; other smaller conservation lands also occur within this unit (for more information, see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>).

Unit 5 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. Habitat within the Corkscrew Unit provides ecological diversity (*i.e.*, cypress and hydric flatwoods) and includes areas identified as having HCV. Corkscrew

Swamp Sanctuary was established to protect one of the largest remaining stands of cypress in North America, and this area likely includes high-quality roosting habitat. The area also provides connectivity between Babcock-Webb WMA and areas south. The natural habitat within Unit 5 serves as important habitat in an area that is otherwise under high development pressure.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 5 may require special management considerations or protection due to the following: Habitat loss, fragmentation, or degradation from changes in land use (e.g., land clearing for residential/commercial development); lack of habitat management and/or inadvertent impacts from land management practices (e.g., prescribed fire, snag removal); and climate change (e.g., sea level rise/inundation, saltwater intrusion, habitat alteration/degradation) (see Special Management Considerations or Protection, above).

#### *Unit 6: Big Cypress Unit*

Unit 6 encompasses 714,085 ac (288,980 ha) of lands in Collier, Hendry, and Monroe Counties, Florida. The majority of Unit 6 is located in Collier County, south of I-75; the remainder occurs in southern Hendry County and mainland portions of Monroe County. This unit predominately consists of Federal (533,227 ac (215,789 ha)) and State-owned (152,559 ac (61,738 ha)) conservation lands. The largest landholdings within this unit are Big Cypress National Preserve, Florida Panther National Wildlife Refuge, Fakahatchee Strand Preserve State Park, and Picayune Strand State Forest; other smaller conservation lands also occur within this unit (for more information, see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>). We excluded approximately 14,455 ac (5,850 ha) of Tribal lands (Seminole Tribe of Florida) that occur within Unit 6 from this final critical habitat designation (see *Exclusions Based on Other Relevant Impacts*, below).

Unit 6 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. Habitat in the Big Cypress Unit, along with Unit 5, provides ecological diversity (i.e., cypress and hydric flatwoods) and

includes areas identified as having HCV. Roosting habitat within this unit is of particularly high quality. Despite challenges in accessing this site to conduct surveys, a large Florida bonneted bat population has been documented in this unit, including the discovery of 25 natural roosts (the most of any unit). The Florida bonneted bats in this area are genetically differentiated from those occurring elsewhere in the range (Austin et al. 2022, entire), and thus contribute to the genetic diversity of the overall population.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 6 may require special management considerations or protection due to the following threats: Habitat loss, fragmentation, or degradation from changes in land use (e.g., land clearing for residential, commercial, transportation, or energy-related development); lack of habitat management and/or inadvertent impacts from land management practices (e.g., prescribed fire, snag removal, habitat and hydrologic restoration); excessive pesticide use; and climate change (e.g., sea level rise/inundation, saltwater intrusion, habitat alteration/degradation, coastal squeeze) (see Special Management Considerations or Protection, above).

#### *Unit 7: Everglades Tree Islands Unit*

Unit 7 encompasses 16,604 ac (6,719 ha) of lands in Miami-Dade County, Florida, south of Tamiami Trail and west of Krome Avenue. Nearly this entire unit is Federal land within Everglades National Park (ENP; 16,596 ac (6,716 ha)).

Unit 7 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. The Everglades Tree Islands Unit provides connectivity between Unit 6 and the southeast coast (Units 8 and 9), allowing gene flow between these populations. It also includes areas identified as having HCV. Despite limited effort and challenges accessing the area to conduct surveys, the Florida bonneted bat has been documented throughout this unit.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 7 may require special management considerations or protection due to the following threats: Lack of habitat management and/or inadvertent impacts from land management practices (e.g., prescribed fire, snag removal, habitat and hydrologic restoration) and climate

change (e.g., sea level rise/inundation, saltwater intrusion, habitat alteration/degradation) (see Special Management Considerations or Protection, above).

#### *Unit 8: Long Pine Key Unit*

Unit 8 encompasses 25,337 ac (10,253 ha) of lands in Miami-Dade County, Florida, along ENP's Main Park Road (SR-9336) between Mahogany Hammock and SW 237th Avenue. Nearly this entire unit is Federal land within ENP (25,147 ac (10,177 ha)).

Unit 8 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. Habitat in the unit provides ecological diversity (i.e., pine rocklands) and includes areas identified as having HCV, specifically high-quality roosting and foraging habitat within Long Pine Key, the largest remaining contiguous occurrence of pine rockland habitat. This unit includes the southernmost extent of the species' range and provides additional connectivity between Units 6 and 9.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 8 may require special management considerations or protection due to the following: Lack of habitat management and/or inadvertent impacts from land management practices (e.g., prescribed fire, snag removal) and climate change (e.g., sea level rise/inundation, saltwater intrusion, habitat alteration/degradation) (see Special Management Considerations or Protection, above).

#### *Unit 9: Miami Rocklands Unit*

Unit 9 encompasses 4,281 ac (1,732 ha) of lands in Miami-Dade County, Florida. This unit consists of 36 subunits located between Tamiami Trail to the north and SR-9336 to the south, and is surrounded by a dense urban matrix typical of the Miami metropolitan area. This unit predominately consists of conservation lands owned by county (2,458 ac (995 ha)), State (785 ac (318 ha)), and Federal (603 ac (244 ha)) agencies. The largest landholdings within this unit are Zoo Miami, Larry and Penny Thompson Park, the U.S. Coast Guard Communication Station, Navy Wells, and the Deering Estate. Many county-owned preserves and parks, as well as other smaller conservation lands, also occur within this unit (for more information, see Conservation Lands Within Florida Bonneted Bat Final Critical Habitat Designation under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on

<https://www.regulations.gov>). We excluded approximately 104 ac (42 ha) from Unit 9 associated with the Coral Reef Commons HCP from this final critical habitat designation (see *Exclusions Based on Other Relevant Impacts*, below).

Unit 9 contains all of the essential physical or biological features for the Florida bonneted bat and is considered occupied at the time of listing based on documented presence of Florida bonneted bats within the unit. The Miami Rocklands Unit represents the easternmost extent of the species' range. Habitat in this unit provides ecological diversity (*i.e.*, pine rocklands) and includes areas identified as having HCV. This unit includes remaining fragments of pine rockland and rockland hammock habitat within an urbanized landscape. These fragments of natural habitat are used extensively by Florida bonneted bats and provide connectivity within the unit. Florida bonneted bats inhabiting the area are the most genetically differentiated from those occurring elsewhere in the range (Austin et al. 2022, entire), and thus contribute to the genetic diversity of the overall population.

The physical or biological features essential to the conservation of the Florida bonneted bat in Unit 9 may require special management considerations or protection due to the following: Habitat loss, fragmentation, or degradation from changes in land use (*e.g.*, land clearing for residential, commercial, transportation, or energy-related development); lack of habitat management and/or inadvertent impacts from land management practices (*e.g.*, prescribed burns, snag removal, habitat restoration); excessive pesticide use; and climate change (*e.g.*, sea level rise/inundation, saltwater intrusion, habitat alteration/degradation, coastal squeeze) (see Special Management Considerations or Protection, above).

Under section 4(a)(3)(B)(i) of the Act, we are exempting Homestead Air Reserve Base (Base) lands (280 ac (113 ha)) from critical habitat designation because the U.S. Air Force has an approved INRMP that provides benefits to the Florida bonneted bat and its habitat (see Exemptions, below, for more detailed information).

## Effects of Critical Habitat Designation

### Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened

species or result in the destruction or adverse modification of designated critical habitat of such species.

We published a final rule revising the definition of destruction or adverse modification on August 27, 2019 (84 FR 44976). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation.

Compliance with the requirements of section 7(a)(2) is documented through our issuance of:

- (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or
- (2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define “reasonable and prudent alternatives” (at 50 CFR 402.02) as alternative actions identified during consultation that:

- (1) Can be implemented in a manner consistent with the intended purpose of the action,
- (2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,
- (3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate consultation on previously reviewed actions. These requirements apply when the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law) and, subsequent to the previous consultation: (a) if the amount or extent of taking specified in the incidental take statement is exceeded; (b) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (c) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or (d) if a new species is listed or critical habitat designated that may be affected by the identified action. The reinitiation requirement applies only to actions that remain subject to some discretionary Federal involvement or control. As provided in 50 CFR 402.16, the requirement to reinitiate consultations for new species listings or critical habitat designation does not apply to certain agency actions (*e.g.*, land management plans issued by the Bureau of Land Management in certain circumstances).

### Application of the “Adverse Modification” Standard

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat as a whole for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that

designates critical habitat, activities involving a Federal action that may violate section 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

Activities that we may, during a consultation under section 7(a)(2) of the Act, consider likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would significantly alter roosting or foraging habitat or habitat connectivity such that they appreciably diminish the value of critical habitat as a whole. Such activities may include, but are not limited to: Land clearing for residential, commercial, transportation, energy-related or other development; water diversion, drainage, or wetland loss or conversion; and excessive alteration of natural lighting (that disrupts roosting, movements, or foraging conditions or impacts prey). These activities could destroy Florida bonneted bat roosting and foraging sites (necessary for food, shelter, protection from predation, and reproduction), reduce habitat conditions below what is necessary for the species' survival and growth, and/or eliminate or reduce the habitat necessary for successful reproduction, dispersal, and population expansion (see Physical or Biological Features Essential to the Conservation of the Species, above).

(2) Actions that would significantly alter vegetation structure or composition such that they appreciably diminish the value of critical habitat as a whole. Such activities could include, but are not limited to: Vegetation removal conducted in a manner that leads to significant, irreversible diminishment of physical or biological features essential to the conservation of the Florida bonneted bat. Habitat management or restoration activities that are intended to benefit Florida bonneted bat critical habitat (e.g., habitat or hydrologic restoration, prescribed burning and other forest management activities, or removal of invasive plants), following state and federal guidelines, and with previously approved management plans, under most circumstances would not significantly adversely alter designated critical habitat. These activities could affect habitat that provides for the Florida bonneted bat's roosting and rearing, foraging and prey, refuge from short-term changes to habitat, and/or protection from predation (see Physical or Biological Features Essential to the Conservation of the Species, above).

(3) Actions that would significantly reduce suitability of habitat or impact prey base (e.g., availability, abundance, density, diversity) such that they

appreciably diminish the value of critical habitat as a whole. These actions include, but are not limited to: Hydrologic alteration, excessive pesticide applications, or excessive alteration of natural lighting that impact prey or alter foraging behavior or movement. These activities could significantly modify habitat that currently provides adequate prey and space for foraging for the Florida bonneted bat (see Physical or Biological Features Essential to the Conservation of the Species, above).

Activities that the Service may, during a consultation under section 7(a)(2) of the Act, consider likely to adversely affect critical habitat but not likely to destroy or adversely modify critical habitat include actions that significantly affect the unit or subunit's ability to fulfill its primary functions (e.g., connectivity, foraging or roosting habitat, genetic representation), but do not appreciably diminish the value of critical habitat as a whole. Such activities may include a landscape-scale hydrologic restoration project that would convert large amounts of roosting habitat to foraging habitat within a unit; development that would eliminate a small amount of high-value foraging area or affect a known corridor; or habitat or invasive species management programs that are overall beneficial to Florida bonneted bat habitat but may result in inadvertent, but significant, impacts to roosting habitat.

When conducted with guidance from the Service or using established best management practices (BMPs) that prevent or minimize impacts, the actions mentioned above are beneficial and are encouraged as a part of standard land management practices. Avoidance and minimization measures can also reduce the impacts of habitat loss and other impacts from development projects, habitat alteration, and habitat conversion. General guidance has already been developed and is in use (see the Florida Bonneted Bat Consultation Guidelines, appendices D and E, and the Florida Bonneted Bat Avoidance and Minimization Measures under Supporting and Related Material in Docket No. FWS-R4-ES-2019-0106 on <https://www.regulations.gov>); additional guidance is under development to address habitat management practices on conservation lands.

Other activities that the Service may consider that may affect, but are unlikely to adversely affect, critical habitat include actions that are wholly beneficial (i.e., those that maintain, improve, or restore the functionality of critical habitat for the Florida bonneted

bat without causing adverse effects to the essential physical or biological features), discountable (i.e., unlikely to occur), or insignificant. In such cases, the Act's section 7 consultation requirements can be satisfied through the informal concurrence process.

Whether an action will have insignificant effects must be considered within the context of the unit or subunit in which the action occurs. A localized reduction in roosting or foraging habitat within a stand may have such a small impact on the essential physical or biological features within that stand that a "not likely to adversely affect" determination is appropriate. Similarly, effects to roosting habitat may be negligible where a hazard tree removal project occurs in a stand with many suitable roosting trees.

### Exemptions

#### *Application of Section 4(a)(3) of the Act*

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

- (1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;
- (2) A statement of goals and priorities;
- (3) A detailed description of management actions to be implemented to provide for these ecological needs; and
- (4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense

(DoD), or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the critical habitat designation for Florida bonneted bat to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. The following areas are DoD lands with completed, Service-approved INRMPs within the critical habitat designation.

#### *Approved INRMPs*

For discussion of the approved INRMP for Avon Park Air Force Range (Unit 1: Kissimmee Unit; 99,523 ac (40,276 ha)), see Exemptions in the proposed critical habitat rule (85 FR 35510, June 10, 2020, p. 35531).

For discussion of the approved INRMP for Homestead Air Reserve Base (Unit 9: Miami Rocklands Unit—Subunits KK, LL; 280 ac (113 ha)), see Exemptions in the revised proposed critical habitat rule (87 FR 71466, November 22, 2022, p. 71480).

In accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to Avon Park Air Force Range's and Homestead Air Reserve Base's INRMPs and that conservation efforts identified in the INRMPs will provide a benefit to the Florida bonneted bat. Therefore, lands within these installations are exempt from critical habitat designation under section 4(a)(3) of the Act. Accordingly, we are not including approximately 99,803 ac (40,389 ha) of habitat in this final critical habitat designation because of these exemptions.

#### **Consideration of Impacts Under Section 4(b)(2) of the Act**

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. Exclusion decisions are governed by the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of

Section 4(b)(2) of the Endangered Species Act (hereafter, the “2016 Policy”; 81 FR 7226, February 11, 2016)—both of which were developed jointly with the National Marine Fisheries Service (NMFS). We also refer to a 2008 Department of the Interior Solicitor's opinion entitled, “The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act” (M–37016). We explain each decision to exclude areas, as well as decisions not to exclude, to demonstrate that the decision is reasonable.

The Secretary may exclude any particular area if she determines that the benefits of such exclusion outweigh the benefits of including such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive due to the protection from destruction of adverse modification as a result of actions with a Federal nexus; the educational benefits of mapping essential habitat for recovery of the listed species; and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat. In the case of the Florida bonneted bat, the benefits of critical habitat include public awareness of the presence of Florida bonneted bat and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the Florida bonneted bat due to the protection from destruction or adverse modification of critical habitat.

When identifying the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation or in the continuation, strengthening, or encouragement of partnerships. Additionally, continued implementation of an ongoing management plan that provides equal to or more conservation than a critical habitat designation would reduce the benefits of including that specific area in the critical habitat designation.

We evaluate the existence of a conservation plan when considering the

benefits of inclusion. We consider a variety of factors, including, but not limited to, whether the plan is finalized; how it provides for the conservation of the essential physical or biological features; whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future; whether the conservation strategies in the plan are likely to be effective; and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

#### *Exclusions Based on Economic Impacts*

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an IEM and screening analysis, including a memo addressing supplemental information on land values, which, together with our narrative and interpretation of effects, we consider our economic analysis of the critical habitat designation and related factors (IEc 2021a, b, entire). The original DEA, dated February 14, 2020, and the memo providing supplemental data supporting the original DEA, dated February 6, 2020, were made available for public review from June 10 through August 10, 2020 (85 FR 35510; June 10, 2020). The IEM and the economic analysis were revised prior to publication of the November 22, 2022, revised proposed rule, and the revised analyses, both dated September 1, 2021, were made available for public review from November 22, 2022, through January 23, 2023 (87 FR 71466, November 22, 2022). The economic analysis addressed probable economic impacts of critical habitat designation for Florida bonneted bat. Following the close of the comment period on the November 22, 2022, revised proposed rule, we reviewed and evaluated all information submitted during both comment periods that may pertain to our consideration of the probable



incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the Florida bonneted bat is summarized below and available in the screening analysis for the Florida bonneted bat (IEc 2021a, entire), available at <https://www.regulations.gov>.

As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from this designation of critical habitat for the Florida bonneted bat, first we identified, in the revised IEM dated June 22, 2021, probable incremental economic impacts associated with the following categories of activities: (1) Commercial or residential development; (2) transportation; (3) utilities; (4) energy (including solar, wind, and oil and gas); (5) water management (including water supply, flood control, and water quality); (6) recreation; (7) land management (including prescribed burning and invasive species control); and (8) habitat and hydrologic restoration. We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. Because the Florida bonneted bat is already listed under the Act, in areas where the species is present, Federal agencies are currently required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. Consultations to avoid the destruction or adverse modification of critical habitat will be incorporated into the existing consultation process.

In our IEM, we attempted to clarify the distinction between the effects that result from the species being listed and those attributable to the critical habitat designation (*i.e.*, difference between the jeopardy and adverse modification standards) for the Florida bonneted bat's critical habitat. The following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm to constitute

jeopardy to the Florida bonneted bat would also likely adversely affect the essential physical or biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this designation of critical habitat.

The critical habitat designation for the Florida bonneted bat consists of nine units, all occupied by the species, totaling 1,160,625 ac (469,688 ha) and including lands under Federal, State, county, local, and private ownership (see table 1, above). Because all areas are occupied, the economic impacts of implementing the rule through section 7 of the Act will most likely be limited to additional administrative effort to consider adverse modification. This finding is based on the following factors:

- Any activities with a Federal nexus occurring within occupied habitat will be subject to section 7 consultation requirements regardless of critical habitat designation, due to the presence of the listed species; and
- In most cases, project modifications requested to avoid adverse modification are likely to be the same as those needed to avoid jeopardy in occupied habitat.

Our analysis considers the potential need to consult on development, transportation, utilities, land management, habitat restoration, and other activities authorized, undertaken, or funded by Federal agencies within critical habitat. The total incremental section 7 costs associated with this designation are estimated to be less than \$70,800 per year, with the highest costs expected in Unit 6 (IEc 2021a, pp. 2, 25). While the designated critical habitat area is relatively large, incremental section 7 costs are kept comparatively low due to the strong baseline protections that already exist for this species due to its listed status, the existence of a consultation area map that alerts managing agencies about the location of the species and its habitat, and the presence of other listed species in the area.

#### *Florida Department of Transportation (FDOT) Rights-of-Way*

Based on a request for exclusion from FDOT, we are examining the benefits of inclusion or exclusion of areas of critical habitat that overlap with FDOT rights-of-way in all critical habitat units (Units 1–9). FDOT requested exclusion because they expect this critical habitat

designation to significantly increase consultation actions for the regular and frequent activities for work FDOT conducts within its transportation rights-of-way, thus resulting in an undue economic hardship to FDOT. Because all critical habitat units are occupied, any inclusion of rights-of-way would be occupied areas. FDOT receives Federal agency funding and has assumed responsibility for environmental reviews from the Federal Highway Administration. It also receives authorization (U.S. Army Corps of Engineers) for many of their activities along their rights-of-way.

#### *Benefits of Inclusion*

The principal benefit of including an area in critical habitat designation is the requirement of Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must also consult with the Service on actions that may affect a listed species and ensure their actions are not likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. In some cases, the outcome of these analyses will be similar, because effects to critical habitat will often result in effects to the species. This would generally be in cases where the species is considered present in the action area and may be affected by the proposed action and when any voluntary or required measures to avoid jeopardy are the same as those measures to avoid destruction or adverse modification of critical habitat; that is the case here. Additionally, there may be educational benefits associated with the designation of critical habitat. Thus, critical habitat designation may provide greater benefits to the recovery of a species than listing would alone.

Critical habitat designation is expected to provide some benefit (although likely less of a benefit than if the units were unoccupied) through the conservation measures associated with future section 7 consultations associated with FDOT actions that involve a Federal nexus. Another possible benefit of including lands in critical habitat is public and agency education regarding the potential conservation value of these areas. For FDOT actions without a

Federal nexus, there is no requirement to consider effects to critical habitat, but there is still a requirement to consider potential effects to the species itself (e.g., take of a listed species). Designation of critical habitat would provide educational benefits by informing Federal agencies and the public about the presence of listed species within FDOT rights-of-way. Florida bonneted bats are typically associated with a diversity of ecological communities, including pine rocklands, cypress communities, hydric pine flatwoods, mesic pine flatwoods, and high pine, but they also occur in a variety of other habitats that provide adequate prey and space for foraging (e.g., freshwater edges and freshwater herbaceous wetlands, prairies, wetland and upland shrub communities, and wetland and upland forests), including habitat edges adjacent to roads and mowed areas (see Physical or Biological Features Essential to the Conservation of the Species, above). FDOT rights-of-way contain the physical or biological features essential to the conservation of the species, and these rights-of-way overlap designated critical habitat units, all of which are occupied by Florida bonneted bats.

Including FDOT rights-of-way in designated critical habitat provides an opportunity to highlight FDOT rights-of-way as important for the conservation of the species, thus increasing awareness of the species and its habitat use and needs. Therefore, we foresee educational value that a designation would be expected to provide to FDOT, Federal agencies, and the public. There is also the possible benefit that additional funding could be generated for habitat improvement by an area being designated as critical habitat. Some funding sources may rank a project higher if the area is designated as critical habitat.

We also evaluated whether there were any conservation plans or other conservation measures that may reduce the benefits of including FDOT rights-of-way in this designation of critical habitat. However, there are no specific Florida bonneted bat management plans, habitat plans, or specific conservation measures that have been developed by FDOT that would provide a conservation benefit to the Florida bonneted bat in these areas.

Thus, we find that inclusion of areas that overlap with FDOT rights-of-way in designated critical habitat for the Florida bonneted bat would provide: (1) A regulatory benefit when there is a Federal nexus; and (2) significant educational benefits for the Florida bonneted bat and its habitat.

#### Benefits of Exclusion

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation or in the continuation, strengthening, or encouragement of partnerships. We expect to continue to work with FDOT on efforts to conserve the Florida bonneted bat and other co-occurring federally listed species. Working with our Federal partners or, in the case of FDOT, entities that have assumed some responsibility from a Federal partner, there are opportunities to develop section 7(a)(1) conservation strategies and programmatic section 7(a)(2) consultations to streamline regulatory procedures and benefit listed species. There are also opportunities to develop conservation plans for non-Federal actions to streamline regulatory compliance.

We also considered the potential economic impact of designating critical habitat. The total number of future section 7 consultations expected over the next 10 years are modest at approximately 4 formal consultations, 19 informal consultations, and 2 technical assistance actions (IEc 2021a, p. 2); however, it is anticipated that all FDOT projects would result in only informal consultation on Florida bonneted bat critical habitat, each of which is estimated to have a total cost of \$2,600 compared to estimated costs of \$5,300 for a formal consultation or \$9,800 for a programmatic consultation (IEc 2021a, pp. 10, 12–15, 18, 24). There is not expected to be any difference between a jeopardy analysis and a destruction or adverse modification analysis conducted as part of the consultation because threats to the Florida bonneted bat are largely habitat related. Because all areas of critical habitat are occupied, there would always be a consultation due to the presence of the species when there is a Federal nexus, and the designation of critical habitat would then result in only minor additional administrative economic costs due to the additional analysis required for the destruction or adverse modification analysis. The Service has developed a consultation area map (see Florida Bonneted Bat Consultation Guidelines under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>), which is routinely used by FDOT, that can help streamline consultation and reduce the administrative burden associated with consultation. The Florida Bonneted Bat Consultation Guidelines alert managing agencies about the location of the

species and its habitat. Agencies can use the consultation guidelines to screen projects for potential impacts to the species; to determine whether additional consultation with the Service is required; and, where appropriate, to reach a determination that an action may affect, but is not likely to adversely affect, designated critical habitat. Prior to publication of this final rule, the Service updated the consultation guidelines to include critical habitat for the Florida bonneted bat, which increases the usefulness of this tool to FDOT for section 7 consultations involving Florida bonneted bat critical habitat. Therefore, we anticipate that this will help streamline consultation for FDOT and reduce the administrative burden associated with consultation, thus reducing the overall cost of consultation to FDOT associated with this critical habitat designation.

The total estimated cost of considering destruction or adverse modification of Florida bonneted bat critical habitat during all section 7 consultations will result in incremental costs of approximately \$70,800 per year, of which approximately \$50,800 are the incremental costs associated with all informal consultations (IEc 2021a, p. 25). Incremental costs for FDOT are expected to only comprise a portion of the annual estimated incremental costs, although FDOT is one of several agencies most likely to consult with the Service with regard to the Florida bonneted bat over the next 10 years. It is estimated that approximately 62 FDOT projects may intersect with critical habitat in Units 1 through 6; there are no planned FDOT projects in or near Units 7 through 9 (IEc 2021a, p. 8). Thus, excluding the rights-of-way could moderately reduce costs for FDOT.

#### Benefits of Inclusion Outweigh the Benefits of Exclusion

In weighing the benefits of including versus the benefits of excluding FDOT rights-of-way in our critical habitat designation, we find that the benefits of inclusion of these lands outweigh the benefits of exclusion of these lands in the designation. The benefits of exclusion are small and are primarily the avoidance of potential future costs due to section 7 consultation. Because the entire critical habitat designation is occupied by the Florida bonneted bat, any consultation would result from the presence of a listed species; there would be an additional minor administrative cost for the destruction or adverse modification analysis. Any project modifications to avoid destruction or adverse modification would likely be

the same as those modifications already undertaken to avoid jeopardy; thus, we anticipate that conducting a destruction or adverse modification analysis would have only a minor administrative cost beyond the cost of the analysis that would already be conducted to avoid jeopardy.

In contrast, the benefits of inclusion are higher than those of exclusion because of educational opportunities and the regulatory benefit of potential section 7 consultations. Because critical habitat is one conservation tool that can contribute to the recovery of the species, the recovery of the Florida bonneted bat is best served by the inclusion of FDOT rights-of-way in critical habitat units. Further, there are no specific Florida bonneted bat management plans, habitat plans, or specific conservation measures that have been developed by FDOT that would provide a conservation benefit to the Florida bonneted bat in these areas. Therefore, we conclude that the benefits of inclusion are greater than the benefits of exclusion, and we are including FDOT rights-of-way in the designation of critical habitat for the Florida bonneted bat.

#### *Florida Power and Light (FPL) Power Line Easements and Rights-of-Way*

Based on a request for exclusion from FPL, we are examining the benefits of inclusion or exclusion of areas of critical habitat in Units 2, 3, 5, 6, 8, and 9 that overlap with FPL power line easements and rights-of-way. FPL requested exclusion because they expect this critical habitat designation to significantly increase costs and time to conduct activities associated with existing and potential future facilities within its power line easements and rights-of-way, thus resulting in an undue economic hardship to FPL. Because all critical habitat units are occupied, any inclusion of power line easements and rights-of-way would be occupied areas. In total, FPL has approximately 73 mi (118 km) of transmission lines and 46 mi (74 km) of distribution lines within power line easements and rights-of-way that overlap with critical habitat, with 21 mi (33 km) of transmission lines and 2.5 mi (4 km) of distribution lines in Unit 2, 40 mi (64 km) of transmission lines and 12 mi (20 km) of distribution lines in Unit 3, 10 mi (16 km) of transmission lines and 3 mi (5 km) of distribution lines in Unit 5, 15 mi (24 km) of distribution lines in Unit 6, 0.05 mi (0.07 km) of distribution lines in Unit 8, and 2 mi (4 km) of transmission lines and 13 mi (21 km) of distribution lines in Unit 9. FPL maintains existing facilities on Federal lands and receives Federal agency

funding (e.g., U.S. Department of Energy) or authorization (e.g., U.S. Army Corps of Engineers) for many of their activities within their power line easements and rights-of-way.

#### *Benefits of Inclusion*

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must also consult with the Service on actions that may affect a listed species and ensure their actions are not likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. In some cases, the outcome of these analyses will be similar, because effects to critical habitat will often result in effects to the species. This would generally be in cases where the species is considered present in the action area and may be affected by the proposed action and when any voluntary or required measures to avoid jeopardy are the same as those measures to avoid destruction or adverse modification of critical habitat; that is the case here. Additionally, there may be educational benefits associated with the designation of critical habitat. Thus, critical habitat designation may provide greater benefits to the recovery of a species than listing would alone.

Critical habitat designation is expected to provide some benefit (although likely less of a benefit than if the units were unoccupied) through the conservation measures associated with future section 7 consultations associated with FPL actions that involve a Federal nexus. Another possible benefit of including lands in critical habitat is public and agency education regarding the potential conservation value of these areas. For FPL actions without a Federal nexus, there is no requirement to consider effects to critical habitat, but there is still a requirement to consider potential effects to the species itself (e.g., take of a listed species). Designation of critical habitat would provide educational benefits by informing Federal agencies and the public about the presence of listed species within FPL power line easements and rights-of-way. Florida

bonneted bats are typically associated with a diversity of ecological communities, including pine rocklands, cypress communities, hydric pine flatwoods, mesic pine flatwoods, and high pine, but they also occur in a variety of other habitats that provide adequate prey and space for foraging (e.g., freshwater edges and freshwater herbaceous wetlands, prairies, wetland and upland shrub communities, and wetland and upland forests) (see Physical or Biological Features Essential to the Conservation of the Species, above). FPL power line easements and rights-of-way are within these ecological communities and habitats occupied by Florida bonneted bat; contain the physical or biological features essential to the conservation of the species; and overlap designated critical habitat units, all of which are occupied by Florida bonneted bats.

Including FPL power line easements and rights-of-way in designated critical habitat provides an opportunity to highlight these areas as important for the conservation of the species, thus increasing awareness of the species and its habitat use and needs. Since the publication of the June 10, 2020, proposed rule, communication between the Service and FPL has increased, and designating critical habitat may continue to encourage communication that provides an educational value. Therefore, we anticipate that a critical habitat designation including FPL power line easements and rights-of-way would provide continued educational value to FPL, Federal agencies, and the public. There is also the possible benefit that additional funding could be generated for habitat improvement by an area being designated as critical habitat. Some funding sources may rank a project higher if the area is designated as critical habitat.

We also evaluated whether there were any conservation plans or other conservation measures that may reduce the benefits of including FPL power line easements and rights-of-way in this designation of critical habitat. Before initiating work at a utility pole location, FPL follows a well-established process for managing and protecting migratory bird nests, including inspecting poles for migratory bird nests, such as active woodpecker cavities. FPL plans to continue this best practice and expand it to include determining the presence or absence of any Florida bonneted bat or Florida bonneted bat active roost. If a Florida bonneted bat or Florida bonneted bat roost is confirmed within an FPL pole or on any FPL equipment during pre-removal inspection, FPL will promptly notify and coordinate with the

Service. However, there are no specific Florida bonneted bat management plans, habitat plans, or formalized conservation measures that have been developed by FPL that would provide a conservation benefit to the Florida bonneted bat or its habitat in these areas. Thus, we find that inclusion of areas that overlap with FPL power line easements and rights-of-way in the critical habitat designation for the Florida bonneted bat would provide: (1) A regulatory benefit when there is a Federal nexus; and (2) significant educational benefits for the Florida bonneted bat and its habitat.

#### Benefits of Exclusion

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation or in the continuation, strengthening, or encouragement of partnerships. We expect to continue to work with FPL on efforts to conserve the Florida bonneted bat and other co-occurring federally listed species. Working with our Federal partners, there are opportunities to develop section 7(a)(1) conservation strategies and programmatic section 7(a)(2) consultations to streamline regulatory procedures and benefit listed species. There are also opportunities to develop conservation plans for non-Federal actions to streamline regulatory compliance.

We also considered the potential economic impact of designating critical habitat. The total number of future section 7 consultations expected over the next 10 years are modest at approximately 4 formal consultations, 19 informal consultations, and 2 technical assistance actions (IEC 2021a, p. 2). However, we estimate only approximately one future FPL utility project-related action would require informal consultation in each critical habitat unit annually over the next 10 years in addition to consultations forecast from their consultation history for Florida bonneted bat in or near proposed critical habitat areas (IEC 2021a, pp. 10–13, 15, 18–22). There is not expected to be any difference between a jeopardy analysis and a destruction or adverse modification analysis conducted as part of the consultation because threats to the Florida bonneted bat are habitat-related. Because of this, there would always be a consultation due to the presence of the species when there is a Federal nexus, and the designation of critical habitat would then result in only minor additional administrative economic costs due to the additional analysis required for the destruction or adverse

modification analysis. The Service has developed a consultation area map (see the Florida Bonneted Bat Consultation Guidelines under Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>), which is routinely used by FPL, that can help streamline consultation and reduce the administrative burden associated with consultation. The Florida Bonneted Bat Consultation Guidelines alert managing agencies about the location of the species and its habitat. Agencies can use the consultation guidelines to screen projects for potential impacts to the species; to determine whether additional consultation with the Service is required; and, where appropriate, to reach a determination that an action may affect, but is not likely to adversely affect, designated critical habitat. Prior to publication of this final rule, the Service updated the consultation guidelines to include critical habitat for the Florida bonneted bat, which further increases the usefulness of this tool to FPL for section 7 consultations involving Florida bonneted bat critical habitat. Therefore, we anticipate that this will help streamline consultation for FPL and reduce the administrative burden associated with consultation, thus reducing the overall cost of consultation to FPL associated with this critical habitat designation.

The total estimated cost of considering destruction or adverse modification of Florida bonneted bat critical habitat during section 7 consultation will result in incremental costs of approximately \$70,800 per year throughout the entirety of designated critical habitat (IEC 2021a, p. 25); however, incremental costs for FPL are expected to only comprise a portion of these annual estimated incremental costs. Thus, excluding FPL's power line easements and rights-of-way could moderately reduce costs for FPL.

#### Benefits of Inclusion Outweigh the Benefits of Exclusion

In weighing the benefits of including versus the benefits of excluding FPL power line easements and rights-of-way in our critical habitat designation, we find that the benefits of inclusion of these lands outweigh the benefits of exclusion of these lands in the designation. The benefits of exclusion are small and are primarily the avoidance of potential future costs due to section 7 consultation. Because the entire critical habitat designation is occupied by the Florida bonneted bat, any consultation would result from the presence of a listed species; there would be an additional minor administrative

cost for the destruction or adverse modification analysis. Any project modifications to avoid destruction or adverse modification would likely be the same as those modifications already undertaken to avoid jeopardy; thus, we anticipate that conducting a destruction or adverse modification analysis would have only a minor administrative cost beyond the cost of the analysis that would already be conducted to avoid jeopardy.

In contrast, the benefits of inclusion are greater than those of exclusion. This is primarily because of the regulatory benefit associated with future section 7 consultations when FPL undertakes actions with a Federal nexus. In addition, as discussed above under Benefits of Inclusion, in this instance we also expect significant educational benefits from designating critical habitat along FPL power line easements and rights-of-way. The clear mapping of critical habitat provides helpful information to FPL to better understand where additional management actions may be appropriate (with or without a Federal nexus). FPL has no current Florida bonneted bat habitat conservation plans or other management plans or agreements with the Service in place to rely upon at this time. Therefore, coordination with the Service would be expected to provide education about critical habitat that would help FPL understand how to accomplish their needs while supporting conservation of the Florida bonneted bat and its habitat. This education would also be expected to result in better regulatory coordination with the Service both when there is a Federal nexus and when there is not a Federal nexus. The recovery of the Florida bonneted bat is best served by the inclusion of FPL power line easements and rights-of-way in designated critical habitat. Therefore, we conclude that the benefits of inclusion are greater than the benefits of exclusion, and we are including FPL power line easements and rights-of-way in the designation of critical habitat for the Florida bonneted bat.

As discussed above, we considered the economic impacts of the critical habitat designation, and the Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for the Florida bonneted bat based on economic impacts.

#### *Exclusions Based on Impacts on National Security and Homeland Security*

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (e.g., a DoD installation that is

in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of “critical habitat.” Nevertheless, when designating critical habitat under section 4(b)(2) of the Act, we must consider impacts on national security, including homeland security, on lands or areas not covered by section 4(a)(3)(B)(i). Accordingly, we will always consider for exclusion from the designation areas for which DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns.

We consulted with DoD and DHS on this designation. Neither agency identified any potential national-security impact nor requested an exclusion from critical habitat based on potential national-security impacts. Additionally, we did not receive any new information or public comments regarding our intended determination to not exclude DHS and DoD lands in Subunit 9O identified in the November 22, 2022, revised proposed rule (87 FR 71466). Consequently, the Secretary is not exercising her discretion to exclude any areas from this designation based on impacts on national security.

#### *Exclusions Based on Other Relevant Impacts*

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. To identify other relevant impacts that may affect the exclusion analysis, we consider a number of factors, including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements, or candidate conservation agreements with assurances (CCAAs), or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, social, or other impacts that might occur because of the designation.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area

would receive due to the protection from destruction or adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat. In the case of the Florida bonneted bat, the benefits of critical habitat include public awareness of the presence of the Florida bonneted bat and the importance of habitat protection and, where a Federal nexus exists, increased habitat protection for the Florida bonneted bat due to protection from destruction or adverse modification of critical habitat.

When identifying the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation, or in the continuation, strengthening, or encouragement of partnerships. Additionally, continued implementation of an ongoing management plan that provides equal to or more conservation than a critical habitat designation would reduce the benefits of including that specific area in the critical habitat designation.

We evaluate the existence of a conservation plan when considering the benefits of inclusion. We consider a variety of factors, including, but not limited to, whether the plan is finalized; how it provides for the conservation of the essential physical or biological features; whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future; whether the conservation strategies in the plan are likely to be effective; and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Based on the information provided to us by entities seeking exclusion, as well as additional public comments we received, and the best scientific data available, we evaluated whether certain

lands in all final critical habitat units (*i.e.*, Units 1–9) are appropriate for exclusion from this final designation under section 4(b)(2) of the Act. If our analysis indicates that the benefits of excluding lands from the final designation outweigh the benefits of designating those lands as critical habitat, then the Secretary may exercise her discretion to exclude the lands from the final designation. In the paragraphs below, we provide a detailed balancing analysis of the areas we are excluding from the designation under section 4(b)(2) of the Act.

#### *Private or Other Non-Federal Conservation Plans Related to Permits Under Section 10 of the Act*

HCPs for incidental take permits under section 10(a)(1)(B) of the Act provide for partnerships with non-Federal entities to minimize and mitigate impacts to listed species and their habitats. In some cases, HCP permittees agree to do more for the conservation of the species and their habitats on private lands than designation of critical habitat would provide alone. We place great value on the partnerships that are developed during the preparation and implementation of HCPs.

CCAAs and SHAs are voluntary agreements designed to conserve candidate and listed species, respectively, on non-Federal lands. In exchange for actions that contribute to the conservation of species on non-Federal lands, participating property owners are covered by an “enhancement of survival” permit under section 10(a)(1)(A) of the Act, which authorizes incidental take of the covered species that may result from implementation of conservation actions, specific land uses, and, in the case of SHAs, the option to return to a baseline condition under the agreements. We also provide enrollees assurances that we will not impose further land-, water-, or resource-use restrictions, or require additional commitments of land, water, or finances, beyond those agreed to in the agreements.

When we undertake a discretionary section 4(b)(2) exclusion analysis, we will always consider areas covered by an approved CCAA/SHA/HCP, and we anticipate consistently excluding such areas if incidental take caused by the activities in those areas is covered by the permit under section 10 of the Act and the CCAA/SHA/HCP meets all of the following three factors (see the 2016 section 4(b)(2) policy for additional details):

a. The permittee is properly implementing the CCAA/SHA/HCP and

is expected to continue to do so for the term of the agreement. A CCAA/SHA/HCP is properly implemented if the permittee is, and has been, fully implementing the commitments and provisions in the CCAA/SHA/HCP, implementing agreement, and permit.

b. The species for which critical habitat is being designated is a covered species in the CCAA/SHA/HCP, or very similar in its habitat requirements to a covered species. The recognition that we extend to such an agreement depends on the degree to which the conservation measures undertaken in the CCAA/SHA/HCP would also protect the habitat features of the similar species.

c. The CCAA/SHA/HCP specifically addresses the habitat of the species for which critical habitat is being designated and meets the conservation needs of the species in the planning area.

#### *Coral Reef Commons (CRC) Habitat Conservation Plan*

CRC is a mixed-use community, which consists of 900 apartments, retail stores, restaurants, and parking. In 2017, an HCP and associated permit under section 10 of the Act were developed and issued, respectively, for the CRC development. We have determined that lands associated with the CRC HCP were included within the boundaries of our November 22, 2022, revised proposed critical habitat rule for the Florida bonneted bat. These lands include an on-site preserve and an off-site mitigation area, both of which overlap with proposed Subunit 9O (composing approximately 6 percent of the subunit and approximately 3 percent of the unit as a whole).

Specifically, as part of the HCP and permit, the on-site preserve was established under a conservation encumbrance that will be managed in perpetuity for pine rockland habitat and sensitive and listed species, including the Florida bonneted bat. An additional area within the University of Miami's Center for Southeastern Tropical Advanced Remote Sensing facility site comprises the off-site mitigation area for CRC. Portions of both the on-site preserve and the off-site mitigation area (approximately 48 ac (19 ha) and 56 ac (23 ha), respectively) are included in the area for proposed critical habitat designation and are being managed to maintain healthy pine rockland habitat using invasive, nonnative plant management; mechanical treatment; and prescribed fire. This management addresses both the habitat and conservation needs of the Florida bonneted bat.

Within the HCP, biological goals, objectives, and success criteria of the HCP have been identified that apply to the on-site preserve and the off-site mitigation area. For the on-site preserve, success criteria that focus on restoration and conservation of pine rockland habitat have been established, with initial targets set for 5 years after initiation. For both the on-site preserve and the off-site mitigation area, the CRC HCP also includes a plan for implementing a long-term conservation program with mitigation measures to support specific listed species, including the Florida bonneted bat. Within the on-site preserve area, mitigation measures, some of which are designed to offset impacts to the Florida bonneted bat (e.g., implementing wildlife-friendly lighting, installing bat houses), are to be implemented during construction and within the resulting development.

Since initiating the CRC HCP, pine rockland restoration efforts have been conducted within all of the management units in both the on-site preserve and the off-site mitigation area. Currently, the on-site preserve meets or exceeds the success criteria described for restoration and conservation of pine rockland habitat within the HCP. However, partially because the site is still under construction, mitigation measures associated with implementation of the conservation program within the on-site preserve, such as incorporation of wildlife-friendly lighting, have not been reported on or fully implemented. The Service and CRC partnership is strong and working well; we are currently communicating through the partnership to ensure full implementation of the HCP and permit and considering whether slight modifications to the conservation program would be possible under the adaptive management strategy described within the HCP.

#### *Benefits of Inclusion*

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must also consult with the Service on actions that may affect a listed species and ensure their actions are not likely to jeopardize the continued existence of such species. Therefore, the primary benefit of including the on-site preserve and off-

site mitigation area associated with the CRC HCP is the potential additional regulatory oversight due to section 7 consultations associated with future Federal actions. However, because the Florida bonneted bat is a covered species under the HCP and the pine rockland habitat management provisions in the HCP are being implemented, and because we do not expect any future actions in this area to be authorized, funded, or carried out by a Federal agency, the additional benefits of the inclusion of these areas in designated critical habitat may be limited. Therefore, the benefit of the inclusion of these parcels in critical habitat is expected to be minimal.

A secondary benefit to the inclusion of the on-site preserve and off-site mitigation area in the critical habitat designation for the Florida bonneted bat is an educational benefit through ensuring public awareness regarding the importance of these specific parcels to the Florida bonneted bat and its long-term conservation. Due to the high potential of human-wildlife interaction with this species in the area and the reliance of this species on the remaining pine rockland habitat, the relative importance of these parcels to the species is high; however, the added benefits of education from the designation of critical habitat are likely minimal as the public was previously aware of the area's importance due to the CRC HCP.

#### *Benefits of Exclusion*

The Florida bonneted bat is a species included in the CRC HCP. As part of the HCP, the on-site preserve and off-site mitigation area were established to protect and conserve the species and its habitat. While some mitigation measures in the HCP that are important to Florida bonneted bat habitat have not been implemented, the primary goals for pine rockland habitat management and restoration established for these parcels as part of the HCP and section 10 permit are being fully implemented. The conservation partnership with the CRC development advocate is well-established and could be significantly harmed by the failure to acknowledge the conservation value of the HCP and the considerable efforts that have been made to implement many of the measures of the HCP and section 10 permit. Additionally, failure to acknowledge these agreements would most likely send a chilling effect to other potential conservation partners, which could render conservation efforts in south Florida for the Florida bonneted bat and other listed and at-risk

species more difficult and potentially harm species and sensitive habitats.

#### Benefits of Exclusion Outweigh the Benefits of Inclusion

We have found that, on balance, the benefits of excluding the on-site preserve and off-site mitigation area associated with the CRC HCP outweigh the benefits of including the specific parcels in designated critical habitat for the Florida bonneted bat. We have determined that benefits of preserving the conservation partnership with CRC and the continued habitat management implemented on these parcels, including the ability to modify or amend the HCP to incorporate appropriate additional or improved mitigation measures for the Florida bonneted bat, outweigh the potential additional regulatory benefits associated with the inclusion of these parcels in the critical habitat designation. Additionally, the acknowledgement of the productive cooperative partnership is important for not only this species and situation, but for other existing and future conservation efforts, and to not exclude these lands given that there is a signed HCP that covers the species would have a detrimental effect on existing and future conservation partnerships. Further, while we find that the educational benefits associated with including the parcels in the final designation are valuable, we have determined that the public was educated about the importance of these parcels to pine rockland habitat in our detailed discussion of these areas and the HCP in our November 22, 2022, revised proposed critical habitat rule (see “Private or Other Non-Federal Conservation Plans Related to Permits Under Section 10 of the Act” and the Summary of Exclusions Considered Under 4(b)(2) of the Act at 87 FR 71466, November 22, 2022, pp. 71484–71486). Moreover, the public was highly engaged during the development of this HCP and, as such, is already aware of the areas’ importance for multiple species because of the CRC HCP. Therefore, the existence of the HCP and the educational benefits it has already provided reduce the educational benefit of inclusion of these areas in designated critical habitat. We anticipate minimal further benefit if the areas were to be included in this final designation. Therefore, we are excluding those specific lands associated with the CRC HCP that are in the on-site preserve and off-site mitigation area from this final designation of critical habitat for the Florida bonneted bat because we find that the benefit of excluding them from

designated critical habitat outweighs the benefit of their inclusion.

#### Exclusion Will Not Result in Extinction of the Species

As discussed above, the habitat management provisions set forth in the CRC HCP to manage the on-site preserve and off-site mitigation area for the Florida bonneted bat and pine rockland habitat are being fully implemented. Mitigation measures important to the species have not been reported and have not been fully implemented; however, there is a record that the project proponent is a cooperating partner in the conservation of the Florida bonneted bat, and adaptive management strategies that are built into the HCP provide the flexibility to incorporate additional conservation measures. As a result, we do not find that the exclusion of these specific areas from designated critical habitat is a threat to the viability of the Florida bonneted bat. Further, because the Florida bonneted bat is listed as an endangered species and these areas are occupied, if at any time the parcels are no longer being managed appropriately, the species continues to be protected by the provisions of the Act and the permit for the HCP can be revisited. We conclude that the exclusion of these specific parcels from designated critical habitat will not result in the extinction of the Florida bonneted bat.

We have further determined that there are no additional HCPs or other management plans for the Florida bonneted bat within the critical habitat designation.

#### Tribal Lands

Several Executive Orders, Secretary’s Orders, and policies concern working with Tribes. These guidance documents generally confirm our trust responsibilities to Tribes, recognize that Tribes have sovereign authority to control Tribal lands, emphasize the importance of developing partnerships with Tribal governments, and direct the Service to consult with Tribes on a government-to-government basis.

A joint Secretary’s Order that applies to both the Service and NMFS—Secretary’s Order 3206, *American Indian Tribal Rights, Federal–Tribal Trust Responsibilities, and the Endangered Species Act* (June 5, 1997) (S.O. 3206)—is the most comprehensive of the various guidance documents related to Tribal relationships and Act implementation, and it provides the most detail directly relevant to the designation of critical habitat. In addition to the general direction discussed above, the appendix to S.O. 3206 explicitly recognizes the right of

Tribes to participate fully in any listing process that may affect Tribal rights or Tribal trust resources; this includes the designation of critical habitat. Section 3(B)(4) of the appendix requires us to consult with affected Tribes when considering the designation of critical habitat in an area that may impact Tribal trust resources, Tribally-owned fee lands, or the exercise of Tribal rights. That provision also instructs us to avoid including Tribal lands within a critical habitat designation unless the area is essential to conserve a listed species, and it requires us to evaluate and document the extent to which the conservation needs of the listed species can be achieved by limiting the designation to other lands.

Our implementing regulations at 50 CFR 424.19 and the 2016 section 4(b)(2) policy are consistent with S.O. 3206. When we undertake a discretionary exclusion analysis, in accordance with S.O. 3206, we consult with any Tribe whose Tribal trust resources, Tribally-owned fee lands, or Tribal rights may be affected by including any particular areas in the designation, and we evaluate the extent to which the conservation needs of the species can be achieved by limiting the designation to other areas. When we undertake a discretionary 4(b)(2) exclusion analysis, we always consider exclusion of Tribal lands, and give great weight to Tribal concerns in analyzing the benefits of exclusion.

However, S.O. 3206 does not override the Act’s statutory requirement of designation of critical habitat. As stated above, we must consult with any Tribe when a designation of critical habitat may affect Tribal lands or resources. The Act requires us to identify areas that meet the definition of “critical habitat” (*i.e.*, areas occupied at the time of listing that contain the essential physical or biological features that may require special management or protection and unoccupied areas that are essential to the conservation of a species), without regard to land ownership. While S.O. 3206 provides important direction, it expressly states that it does not modify the Secretary’s statutory authority under the Act or other statutes.

#### Unit 6 (Big Cypress)—Seminole Tribe of Florida

We proposed 14,455 ac (5,850 ha) of critical habitat in Unit 6 that occur on Seminole Tribe of Florida Trust lands. This area is considered occupied at the time of listing and meets the definition of critical habitat. However, the Seminole Tribe of Florida is recognized as a sovereign nation and as such is the



appropriate entity to manage natural resources on Seminole Tribal land. Further, the Seminole Tribe Wildlife Conservation Plan (see Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>) covers these lands for the protection of listed and endangered species, including the Florida bonneted bat. The Service reviewed this plan, together with the Seminole Tribe Fire Management Plan and Forest Management Plan, and issued a non-jeopardy programmatic biological opinion on December 19, 2014, to the Bureau of Indian Affairs, which we amended on June 9, 2017 (see Supporting and Related Material in Docket No. FWS–R4–ES–2019–0106 on <https://www.regulations.gov>). This biological opinion considered projects in development, land management, temporary construction, and maintenance categories, as described by the Tribe. The Wildlife Conservation Plan includes conservation measures in place that support the Florida bonneted bat and its habitat (e.g., limit impacts to potential roost trees during prescribed burns and home site/access road construction, maintain bonneted bat habitat through prescribed burning and construction of bat houses). The conservation measures specifically address conservation of roosting and foraging habitat (i.e., the first four identified essential physical or biological features for the species; see *Summary of Essential Physical or Biological Features*, above) and maintenance of that habitat through active management; therefore, the measures appear to meet the conservation needs of the Florida bonneted bat within the area covered by the plan. We have a productive working relationship with the Seminole Tribe of Florida and coordinated with them during the critical habitat designation process.

#### Benefits of Inclusion

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must also consult with the Service on actions that may affect a listed species and ensure their actions are not likely to jeopardize the continued existence of such species. The difference in the outcomes of the jeopardy analysis and the destruction or

adverse modification analysis represents the regulatory benefit and costs of critical habitat. Because the species occurs in the area, the regulatory benefits of a critical habitat designation are limited to the difference in consultation outcomes between avoidance of jeopardy and destruction or adverse modification of critical habitat.

Designation of critical habitat on the Seminole Tribe of Florida Trust lands of proposed Unit 6 could potentially benefit the Florida bonneted bat because that area provides habitat for the species, encompasses features essential to conservation of the species, and is occupied by the species. However, section 7 consultations within the proposed critical habitat area are anticipated to be rare, due to a general lack of Federal actions requiring consultations in this area beyond the actions already covered in the programmatic biological opinion, and we do not expect this trend to change in the future (IEc 2021a, p. 15). With few section 7 consultations anticipated, we anticipate limited regulatory benefits for the designation of critical habitat for the Florida bonneted bat in this portion of proposed Unit 6. Therefore, the effect of a critical habitat designation on these lands is minimized.

In addition to the few anticipated Federal actions within the area, there is another regulatory process that applies to the proposed critical habitat area that overlaps Seminole Tribe of Florida Trust lands. The Seminole Tribe of Florida has created and implemented a regulatory process that mirrors that of the Service's section 7 processes, but that has a greater level of review because they review all proposed projects, even those lacking a Federal nexus. Similar to the Service's section 7 process, they review projects to ensure that a project is not likely to jeopardize the continued existence of any federally endangered or threatened species or to result in the destruction or adverse modification of designated critical habitat of such species. They also examine conservation measures associated with the project for their value in the conservation of these listed species. The existence of this Tribal regulatory process reduces the benefits of including their lands in critical habitat, and, because this Tribal regulatory process is duplicative of ours, it makes our process redundant.

A possible benefit is that the designation of critical habitat can serve to educate the landowner and public regarding the potential conservation value of an area, and this may focus and contribute to conservation efforts by

other parties by clearly delineating areas of high conservation value for certain species. Any information about the Florida bonneted bat and its habitat that reaches a wide audience, including other parties engaged in conservation activities, would be considered valuable. The Seminole Tribe of Florida is fully aware of the importance of Florida bonneted bat habitat and conservation, and their natural resource staff frequently provide education on these topics. Given that regulatory actions have already informed the public about the value of these areas and helped to focus potential conservation actions and that the Tribe is already providing education on these topics, the educational benefits from designating critical habitat would be small.

Finally, there is the possible benefit that additional funding could be generated for habitat improvement by an area being designated as critical habitat. Some funding sources may rank a project higher if the area is designated as critical habitat. Tribes often seek additional sources of funding in order to conduct wildlife-related conservation activities. Therefore, having an area designated as critical habitat could improve the chances of receiving funding for Florida bonneted bat habitat-related projects.

#### Benefits of Exclusion

The benefits of excluding these Tribal lands from designated critical habitat are significant. We have determined that the primary benefits that would be realized by foregoing the designation of critical habitat on this area include: (1) Our deference to the Tribe as a sovereign nation to develop and implement conservation and natural resource management plans for their lands and resources, which may include benefits to the Florida bonneted bat and its habitat that might not otherwise occur; and (2) the continuance and strengthening of our effective working relationships with the Tribe to promote conservation of the Florida bonneted bat and its habitat, as well as other federally listed species.

We have found that fish, wildlife, and other natural resources on Tribal lands are better managed under Tribal authorities, policies, and programs than through Federal regulations wherever possible and practicable. As stated above, the Seminole Tribe of Florida has developed their Wildlife Conservation Plan with a primary goal to provide for sustainable use and protection of wildlife and other natural resources for the benefit of the Seminole Tribe of Florida and its members. The plan

strives to balance management objectives so that conformity with the policy of the Act is achieved without the Tribe being faced with a disproportionate burden. The plan offers resource management protocols and measures for listed species and addresses: (1) Present conditions and practices on the reservations and Tribal land; (2) alternatives that allow the Tribe to continue growing while still protecting listed species; (3) alternatives for mitigation of effects to listed species for the continued growth of the Tribe; and (4) maintenance of the existing level of scientific knowledge regarding the reservation and its wildlife resources. The plan discusses the Florida bonneted bat and proposes conservation measures related to prescribed burning and home site/access road construction in the Big Cypress area. These conservation measures are generally expected to be compatible with, and benefit, conservation of the Florida bonneted bat. Overall, the commitments toward management of Florida bonneted bat habitat by the Seminole Tribe of Florida likely accomplish greater conservation than would be available through a designation of critical habitat.

During this rulemaking process, we have communicated with the Seminole Tribe of Florida to discuss how they might be affected by the designation of critical habitat for the Florida bonneted bat. As such, we have strengthened our existing beneficial relationship to support Florida bonneted bat conservation. As part of our relationship, we have provided technical assistance to the Seminole Tribe of Florida to refine measures to conserve the Florida bonneted bat and its habitat on their lands. These measures are contained within the Wildlife Conservation Plan developed by the Tribe. Therefore, consistent with our 2016 section 4(b)(2) policy, we place great weight on our working relationship with the Seminole Tribe of Florida and determine that it would be better maintained if these lands are excluded from the designation of critical habitat for the Florida bonneted bat. We view maintaining our partnership as a substantial benefit of exclusion.

#### Benefits of Exclusion Outweigh the Benefits of Inclusion

The benefits of excluding this area from critical habitat include deference to the Tribe as a sovereign nation to manage its own lands, continuing and strengthening our effective working relationship with the Tribe, and working in collaboration and cooperation with the Tribe to promote

conservation of the Florida bonneted bat and its habitat.

The benefits of including Seminole Tribe of Florida lands in the critical habitat designation are limited to the incremental benefits gained through the regulatory requirement to consult under section 7 and consideration of the need to avoid destruction or adverse modification of critical habitat, agency and educational awareness, potential additional grant funding, and the implementation of other law and regulations. However, due to the rarity of Federal actions resulting in section 7 consultations within the proposed critical habitat area, the benefits of a critical habitat designation are minimal. The benefits of including these lands in this critical habitat designation are further reduced by the Tribe's regulatory process that mirrors the Service's section 7, as described above. In addition, the benefits of consultation are further minimized because any conservation measures that may have resulted from consultation are already provided through the conservation benefits to the Florida bonneted bat and its habitat from implementation of the Seminole Tribe Wildlife Conservation Plan. Additionally, through the already beneficial working relationship between the Service and the Tribe, the Service can provide technical assistance and easily communicate as needed to benefit the conservation of listed species, including the Florida bonneted bat. The Service's working relationship with the Tribe will be better maintained if this area located on Seminole Tribe of Florida lands in proposed Unit 6 is excluded from the designation. We view this as a substantial benefit since we are committed to cooperative relationships with Tribes for the mutual benefit of endangered and threatened species, including the Florida bonneted bat. For these reasons, we have determined that designation of critical habitat in this area would have few, if any, additional benefits beyond those that will result from the presence of the species.

In summary, the benefits of including Seminole Tribe of Florida lands in critical habitat are low and are limited to insignificant educational benefits as well as the potential for additional funding for habitat improvement projects. Educational opportunities would predominately benefit members of the Tribe rather than the general public, and even this benefit would be minimal because the Tribe is already aware of the importance of Florida bonneted bat habitat and conservation. However, the ability of the Tribe to manage natural resources on their land without the perception of Federal

Government intrusion is a significant benefit. This philosophy is also consistent with our published policies on Native American natural resource management. In this particular case, exclusion from critical habitat is consistent with Secretary's Order 3206, Executive Order 13175, and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2). The exclusion of this area will likely also provide additional benefits to the species that would not otherwise be available, such as ensuring continued cooperative working relationships with the Seminole Tribe of Florida. We find that the benefits of excluding this area from critical habitat designation outweigh the benefits of including this area and that these areas are not essential to the conservation of the Florida bonneted bat.

#### Exclusion Will Not Result in Extinction of the Species

We have determined that exclusion of Seminole Tribe of Florida lands will not result in extinction of the species. As discussed above under *Section 7 Consultation* in the Effects of Critical Habitat Designation discussion, if a Federal action or permitting occurs, the known presence of Florida bonneted bat would require evaluation under the jeopardy standard of section 7 of the Act, even absent the designation of critical habitat, and thus will protect the species against extinction. Furthermore, the Seminole Tribe of Florida has a long-term record of conserving species and habitat and is committed to protecting and managing their Tribal lands and species found on those lands according to their Tribal and cultural management plans and natural resource management objectives. In short, the Seminole Tribe of Florida is committed to greater conservation measures on their land than would be available through the designation of critical habitat. Additionally, the area we are excluding (14,455 ac (5,850 ha)) would have accounted for approximately 1 percent of areas we are designating as critical habitat. Accordingly, we have determined that all 14,455 ac (5,850 ha) of Seminole Tribe of Florida Trust lands within Unit 6 of the proposed critical habitat designation are excluded under section 4(b)(2) of the Act because the benefits of exclusion outweigh the benefits of inclusion and will not cause the extinction of the species.

#### Unit 1 (Kissimmee)—Miccosukee Tribe of Florida

We proposed 1.25 ac (0.5 ha) of critical habitat in Unit 1 that occurs on Miccosukee Tribe of Florida fee lands.

This area is considered occupied at the time of listing and meets the definition of critical habitat. However, the Miccosukee Tribe of Florida is recognized as a sovereign nation and as such is the appropriate entity to manage natural resources on Miccosukee Tribal lands.

#### Benefits of Inclusion

The principal benefit of including an area in a critical habitat designation is the requirement of Federal agencies to ensure that actions that they authorize, fund, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must also consult with the Service on actions that may affect a listed species, and ensure their actions are not likely to jeopardize the continued existence of such species. The difference in the outcomes of the jeopardy analysis and the destruction or adverse modification analysis represents the regulatory benefit and costs of critical habitat. Because the species occurs in the area, the regulatory benefits of a critical habitat designation are limited to the difference in consultation outcomes between avoidance of jeopardy and destruction or adverse modification of critical habitat.

Designation of critical habitat on the Miccosukee Tribe of Florida fee lands of proposed Unit 1 could potentially benefit the Florida bonneted bat because that area provides habitat for the species, encompasses features essential to conservation of the species, and is occupied by the species. However, section 7 consultations within the proposed critical habitat area are anticipated to be rare, due to a general lack of Federal actions requiring consultations in this area, and we do not expect this trend to change in the future (IEc 2021a, p. 10). With few section 7 consultations anticipated, we anticipate limited regulatory benefits for the designation of critical habitat for the Florida bonneted bat in this portion of proposed Unit 1. Therefore, we would similarly expect limited additional conservation benefits through the section 7 process from the inclusion of Miccosukee Tribe of Florida fee lands in the final critical habitat designation.

A possible benefit is that the designation of critical habitat can serve to educate the landowner and public regarding the potential conservation value of an area, and this may focus and contribute to conservation efforts by other parties by clearly delineating areas

of high conservation value for certain species. Any information about the Florida bonneted bat and its habitat that reaches a wide audience, including other parties engaged in conservation activities, would be considered valuable.

Finally, there is the possible benefit that additional funding could be generated for habitat improvement by an area being designated as critical habitat. Some funding sources may rank a project higher if the area is designated as critical habitat. Tribes often seek additional sources of funding in order to conduct wildlife-related conservation activities. Therefore, having an area designated as critical habitat could improve the chances of receiving funding for Florida bonneted bat habitat-related projects.

#### Benefits of Exclusion

The benefits of excluding these Tribal lands from designated critical habitat are significant. We have determined that the primary benefits that would be realized by foregoing the designation of critical habitat on this area include: (1) Our deference to the Tribe as a sovereign nation to develop and implement conservation and natural resource management plans for their lands and resources, which may include benefits to the Florida bonneted bat and its habitat that might not otherwise occur; and (2) the continuance and strengthening of our effective working relationship with the Tribe to promote conservation of the Florida bonneted bat and its habitat, as well as other federally listed species. We have found that fish, wildlife, and other natural resources on Tribal lands are better managed under Tribal authorities, policies, and programs than through Federal regulations wherever possible and practicable. Additionally, this critical habitat designation may compromise our working relationship with the Tribe, which is essential to achieving our mutual goals of managing for healthy ecosystems upon which the viability of populations of endangered and threatened species depend. Therefore, consistent with our 2016 section 4(b)(2) policy, we place great weight on our working relationship with the Miccosukee Tribe of Florida and determine that it would be better maintained if the Tribe's lands are excluded from the designation of critical habitat for the Florida bonneted bat. We view maintaining our partnership as a substantial benefit of exclusion.

#### Benefits of Exclusion Outweigh the Benefits of Inclusion

The benefits of excluding this area from critical habitat include deference to the Tribe as a sovereign nation to manage its own lands, continuing and strengthening our effective working relationships with the Tribe, and working in collaboration and cooperation with the Tribe to promote conservation of the Florida bonneted bat and its habitat.

The benefits of including the Miccosukee Tribe of Florida in the critical habitat designation are limited to the incremental benefits gained through the regulatory requirement to consult under section 7 and consideration of the need to avoid destruction or adverse modification of critical habitat, agency and educational awareness, potential additional grant funding, and the implementation of other law and regulations. However, due to the rarity of Federal actions resulting in section 7 consultations within the proposed critical habitat area, the benefits of a critical habitat designation are minimal. The Service's working relationship with the Tribe will be better maintained if this area in proposed Unit 1 located on Miccosukee Tribe of Florida lands is excluded from the designation. We view this as a substantial benefit since we are committed to cooperative relationships with Tribes for the mutual benefit of endangered and threatened species, including the Florida bonneted bat. For these reasons, we have determined that designation of critical habitat at this site would have minimal additional benefits beyond those that will result from the presence of the species.

In summary, the benefits of including Miccosukee Tribe of Florida lands in critical habitat are low and are limited to insignificant educational benefits and the potential for additional funding for habitat improvements projects. Educational opportunities would predominately benefit members of the Tribe rather than the general public. However, the ability of the Tribe to manage natural resources on their land without the perception of Federal Government intrusion is a significant benefit. This philosophy is also consistent with our published policies on Native American natural resource management. In this particular case, exclusion from critical habitat is consistent with Secretary's Order 3206, Executive Order 13175, and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2). The exclusion of this area will likely also provide additional benefits to

the species that would not otherwise be available, such as ensuring continued cooperative working relationships with the Miccosukee Tribe of Florida. We find that the benefits of excluding this area from critical habitat designation outweigh the benefits of including this area.

#### Exclusion Will Not Result in Extinction of the Species

We have determined that exclusion of Miccosukee Tribe of Florida lands will not result in extinction of the species. As discussed above under *Section 7 Consultation* in the Effects of Critical Habitat Designation discussion, if a Federal action or permitting occurs, the known presence of Florida bonneted bat would require evaluation under the jeopardy standard of section 7 of the Act, even absent the designation of critical habitat, and thus will protect the species against extinction. Furthermore, the Miccosukee Tribe of Florida has a

long-term record of conserving species and habitat and is committed to protecting and managing their Tribal lands and species found on those lands according to their Tribal and cultural management plans and natural resource management objectives. In short, the Miccosukee Tribe of Florida is committed to greater conservation measures on their land than would be available through the designation of critical habitat. Additionally, the areas we are excluding (1.25 ac (0.5 ha)) would have accounted for an infinitesimal portion of the total area we are designating as critical habitat. Accordingly, we have determined that all 1.25 ac (0.5 ha) of Miccosukee Tribe of Florida lands in Unit 1 of the proposed critical habitat designation are excluded under section 4(b)(2) of the Act because the benefits of exclusion outweigh the benefits of inclusion and will not cause the extinction of the species.

#### Summary of Exclusions

As discussed above, based on the information provided by entities seeking exclusion, as well as any additional public comments we received, we evaluated whether certain lands in the proposed critical habitat designation for the Florida bonneted bat were appropriate for exclusion from this final designation pursuant to section 4(b)(2) of the Act. We are excluding the following areas from critical habitat designation for the Florida bonneted bat: A total of 104 ac (42 ha) within the Coral Reef Commons HCP on-site preserve and off-site mitigation area in proposed Unit 9; a total of 14,455 ac (5,850 ha) of Tribal lands of the Seminole Tribe of Florida in proposed Unit 6; and a total of 1.25 ac (0.5 ha) of Tribal lands of the Miccosukee Tribe of Florida land in proposed Unit 1.

TABLE 2—AREAS EXCLUDED FROM CRITICAL HABITAT DESIGNATION BY CRITICAL HABITAT UNIT FOR THE FLORIDA BONNETED BAT

| Unit                          | Specific area                     | Areas meeting the definition of critical habitat, in acres (hectares) | Areas excluded, in acres (hectares) |
|-------------------------------|-----------------------------------|---|-------------------------------------|
| Unit 1: Kissimmee .....       | Miccosukee Tribe of Florida ..... | 1.25 (0.5)  | 1.25 (0.5)                          |
| Unit 6: Big Cypress .....     | Seminole Tribe of Florida .....   | 14,455 (5,850)  | 14,455 (5,850)                      |
| Unit 9: Miami Rocklands ..... | Coral Reef Commons .....          | 104 (42)  | 104 (42)                            |

#### Required Determinations

##### Regulatory Planning and Review (Executive Orders 12866, 13563, and 14094)

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory

Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA in OMB waived E.O. 12866 review of this rule.

##### Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 et seq.), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual

basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of

project modifications that may result. In general, the term “significant economic impact” is meant to apply to a typical small business firm’s business operations.

Under the RFA, as amended, and following recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities will be directly regulated by this rulemaking, we certify that this critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all information submitted during the comment periods on the June 10, 2020, proposed critical habitat rule (85 FR 35510) and the November 22, 2022, revised proposed rule (87 FR 71466) that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

#### *Energy Supply, Distribution, or Use—Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find

that this critical habitat designation will significantly affect energy supplies, distribution, or use. As most of the area included in this final critical habitat designation occurs on conservation lands (approximately 91 percent), the likelihood of energy development within critical habitat is low. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

#### *Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we make the following finding:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)–(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or Tribal governments” with two exceptions. It excludes “a condition of Federal assistance.” It also excludes “a duty arising from participation in a voluntary Federal program,” unless the regulation “relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,” if the provision would “increase the stringency of conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding,” and the State, local, or Tribal governments “lack authority” to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.”

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies

must ensure that their actions are not likely to destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of \$100 million or more (adjusted annually for inflation) in any year; that is, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. By definition, Federal agencies are not considered small entities, although the activities they fund or permit may be proposed or carried out by small entities. Additionally, 91 percent of the areas within critical habitat units for the Florida bonneted bat are already managed for natural resource conservation. Further, 9 percent of the designated critical habitat for the Florida bonneted bat overlaps with designated critical habitat for co-occurring federally listed species, which means that any actions with a Federal nexus proposed in those areas are already subject to the requirements of section 7 of the Act. Consequently, we do not believe that this critical habitat designation will significantly or uniquely affect small government entities. Therefore, a Small Government Agency Plan is not required.

#### *Takings—Executive Order 12630*

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for Florida bonneted bat in a takings implications assessment. The Act does not authorize us to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not

affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes that this designation of critical habitat for the Florida bonneted bat does not pose significant takings implications for lands within or affected by the designation.

#### *Federalism—Executive Order 13132*

In accordance with E.O. 13132 (Federalism), this rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this final rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act will be

required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

#### *Civil Justice Reform—Executive Order 12988*

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this final rule identifies the physical or biological features essential to the conservation of the species. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

#### *Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

Regulations adopted pursuant to section 4(a) of the Act are exempt from NEPA (42 U.S.C. 4321 et seq.) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations. In a line of cases starting with *Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), the courts have upheld this position.

#### *Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal

Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a government-to-government basis. In accordance with Secretary's Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

The Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida are the main Tribes whose lands and trust resources may be affected by this rule. There may be some other Tribes with trust resources in the area, but we have no specific documentation of this and have not received information with respect to other potential Tribes within the designation area. We briefed both Tribes on the development of the proposed critical habitat designation in October 2019. We provided notice of the publication of the June 10, 2020, proposed rule and the availability of the DEA to both Tribes in June 2020, and we provided notice of the publication of the November 22, 2022, revised proposed rule and the availability of the revised DEA to both Tribes in November 2022, to allow for the maximum time to submit comments. In these notifications, we also described the exclusion process under section 4(b)(2) of the Act and offered to engage in further conversation. We offered both the Seminole Tribe and the Miccosukee Tribe opportunities for further conversation about the proposed and revised proposed critical habitat designations. We met with the Miccosukee Tribe to discuss the June 10, 2020, proposed critical habitat designation, but they did not request further conversation on the November 22, 2022, revised proposed critical habitat designation. We met with the Seminole Tribe in July 2020 and July 2021 to discuss the proposed critical habitat designation, and then again in December 2022 to discuss the revised proposed critical habitat designation. Neither Tribe requested Government-to-Government consultations. We considered these Tribal lands for exclusion from this final critical habitat designation to the extent consistent with

the requirements of section 4(b)(2) of the Act and, subsequently, excluded the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida lands from this final designation. After considering impacts of the critical habitat designation under section 4(b)(2) of the Act, we are excluding approximately 14,457 ac (5,850 ha) of Tribal land from the final critical habitat designation (14,455 ac (5,850 ha) of Seminole Tribe of Florida lands and 1.25 ac (0.5 ha) of Miccosukee Tribe of Indians of Florida lands; see *Tribal Lands under Exclusions Based on Other Relevant Impacts*, above).

#### References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov>

and upon request from the Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**, above).

#### Authors

The primary authors of this final rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Florida Ecological Services Field Office.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

#### Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the

Code of Federal Regulations, as set forth below:

#### PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by revising the entry for “Bat, Florida bonneted” under MAMMALS to read as follows:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

(h) \* \* \*

| Common name                 | Scientific name                | Where listed         | Status | Listing citations and applicable rules                 |
|-----------------------------|--------------------------------|----------------------|--------|--|
| <b>Mammals</b>              |                                |                      |        |  |
| * * *                       | * * *                          | * * *                |        |  |
| Bat, Florida bonneted ..... | <i>Eumops floridanus</i> ..... | Wherever found ..... | E      | 78 FR 61004, 10/2/2013; 50 CFR 17.95(a). <sup>CH</sup> |
| * * *                       | * * *                          | * * *                |        |  |

■ 3. In § 17.95, amend paragraph (a) by adding an entry for “Florida Bonneted Bat (*Eumops floridanus*)” before the entry for “Indiana Bat (*Myotis sodalis*)” to read as follows:

#### § 17.95 Critical habitat—fish and wildlife.

##### (a) Mammals.

##### Florida Bonneted Bat (*Eumops floridanus*)

(1) Critical habitat units are depicted for Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Lee, Miami-Dade, Monroe, Okeechobee, Osceola, and Polk Counties, Florida, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Florida bonneted bat consist of the following components:

(i) Habitats with sufficient darkness that provide for roosting and rearing of offspring. Such habitat provides structural features for rest, digestion of food, social interaction, mating, rearing of young, protection from sunlight and adverse weather conditions, and cover to reduce predation risks for adults and young, and is generally characterized by:

(A) Live or dead trees and tree snags, especially longleaf pine, slash pine, bald cypress, and royal palm, that are sufficiently large (in diameter) and tall

and have cavities of a sufficient size for roosts; and

(B) Live or dead trees and tree snags with sufficient cavity height, spacing from adjacent trees, and relative canopy height to provide unobstructed space for Florida bonneted bats to emerge from roost trees; this may include open or semi-open canopy and canopy gaps.

(ii) Habitats that provide adequate prey and space for foraging, which may vary widely across the Florida bonneted bat's range, in accordance with ecological conditions, seasons, and disturbance regimes that influence vegetation structure and prey species' distributions. Foraging habitat may be separate and relatively far from roosting habitat. Essential foraging habitat consists of sufficiently dark open areas in or near areas of high insect production or congregation, commonly including, but not limited to:

(A) Freshwater edges, and freshwater herbaceous wetlands (permanent or seasonal);

(B) Prairies;

(C) Wetland and upland shrub; and/or

(D) Wetland and upland forests.

(iii) A dynamic disturbance regime (e.g., fire, hurricanes, forest management) that maintains and regenerates forested habitat, including plant communities, open habitat structure, and temporary gaps, which is

conducive to promoting a continual supply of roosting sites, prey items, and suitable foraging conditions.

(iv) A sufficient quantity and diversity of habitats to enable the species to be resilient to short-term impacts associated with disturbance over time (e.g., drought, forest disease). The ecological communities the Florida bonneted bat inhabits differ in hydrology, fire frequency/intensity, climate, prey species, roosting sites, and threats, and include, but are not limited to:

(A) Pine rocklands;

(B) Cypress communities (cypress swamps, strand swamps, domes, sloughs, ponds);

(C) Hydric pine flatwoods (wet flatwoods);

(D) Mesic pine flatwoods; and

(E) High pine.

(v) Habitats that provide structural connectivity where needed to allow for dispersal, gene flow, and natural and adaptive movements, including those that may be necessitated by climate change. These connections may include linear corridors such as vegetated, riverine, or open-water habitat with opportunities for roosting and/or foraging, or patches (i.e., stepping stones) such as tree islands or other isolated natural areas within a matrix of otherwise low-quality habitat.



(vi) A subtropical climate that provides tolerable conditions for the species such that normal behavior, successful reproduction, and rearing of offspring are possible.

(3) Critical habitat does not include human-made structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on April 8, 2024.

(4) Data layers defining map units were created using ESRI ArcGIS mapping software along with various

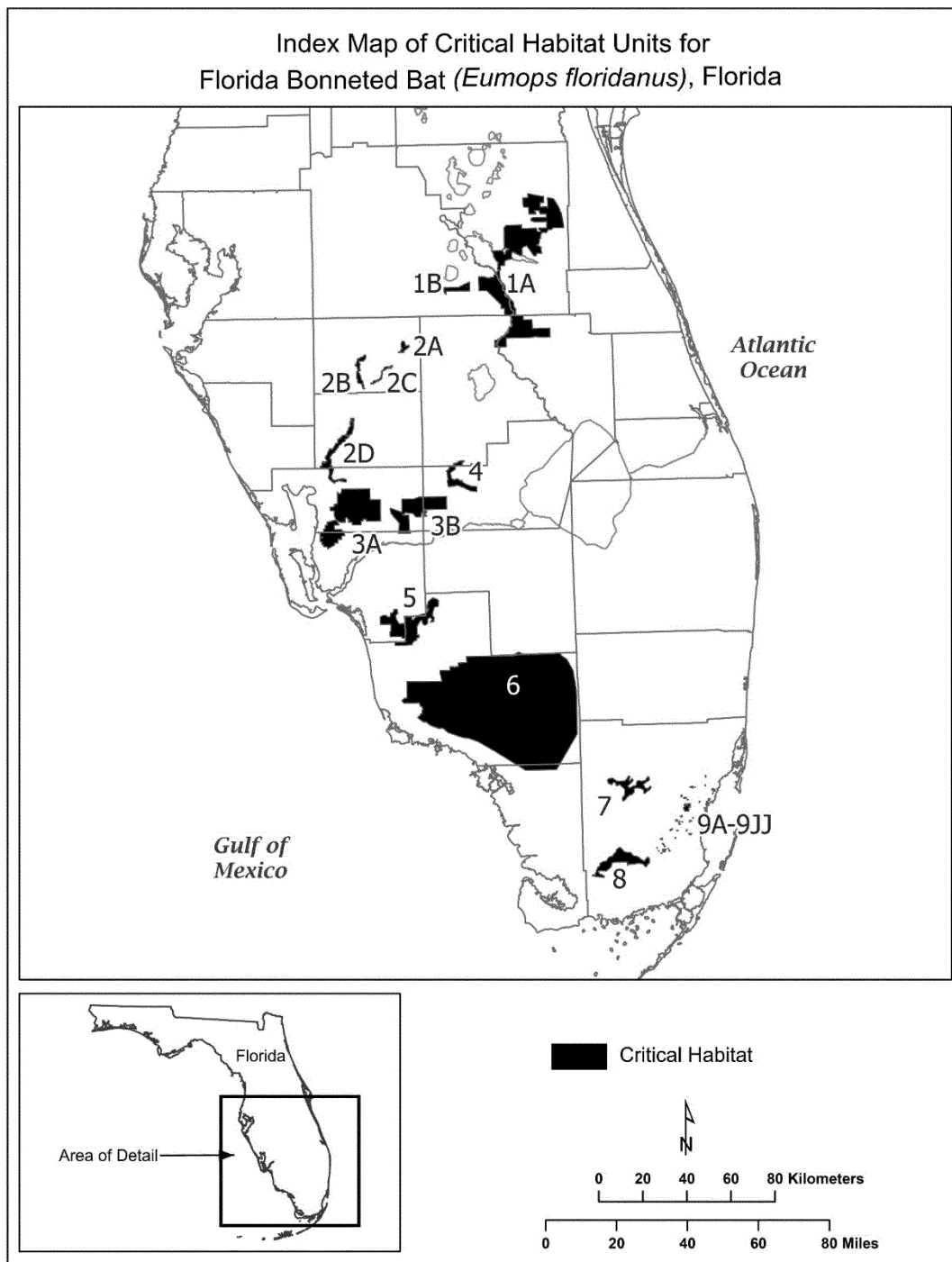
spatial data layers. ArcGIS was also used to calculate the size of habitat areas. The projection used in mapping and calculating distances and locations within the units was World Geodetic System 1984, Universal Transverse Mercator Zone 17 North. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at <https://www.regulations.gov> at Docket

No. FWS–R4–ES–2019–0106, the Florida bonneted bat species web page at <https://www.fws.gov/species/florida-bonneted-bat-eumops-floridanus>, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Index map follows:

**BILLING CODE 4333–15–P**

Figure 1 to Florida Bonneted Bat (*Eumops floridanus*) Paragraph (5)



(6) Unit 1: Kissimmee Unit; Polk, Osceola, Highlands, and Okeechobee Counties, Florida.

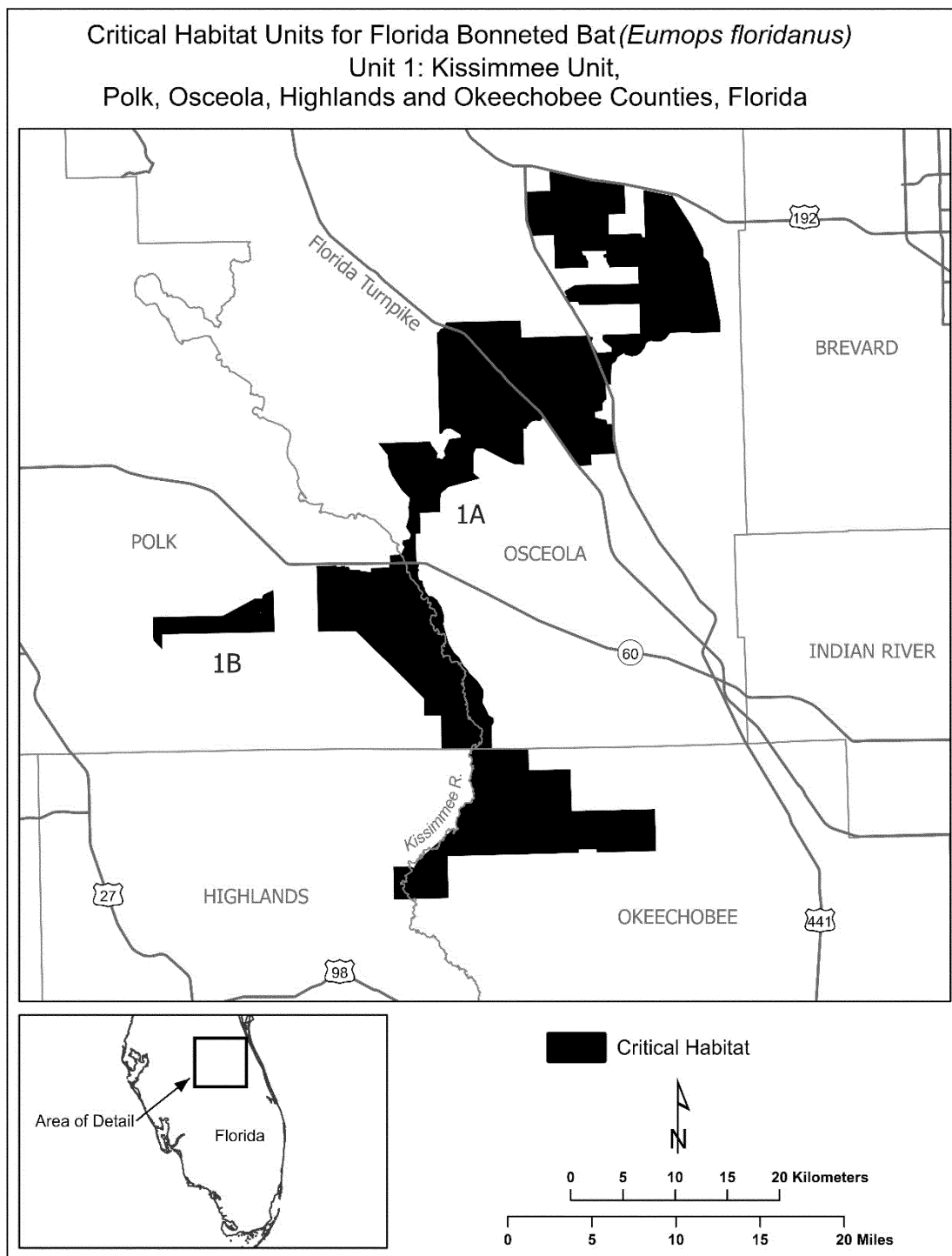
(i) Unit 1 encompasses 175,735 acres (ac) (71,118 hectares (ha)) of lands in

Polk, Osceola, Highlands, and Okeechobee Counties, Florida. This unit consists of two subunits generally located along the eastern bank of Lake Kissimmee northeast to SR-192, north

of SR-60; and along portions of the Kissimmee River, south of SR-60.

(ii) Map of Unit 1 follows:

Figure 2 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (6)(ii)

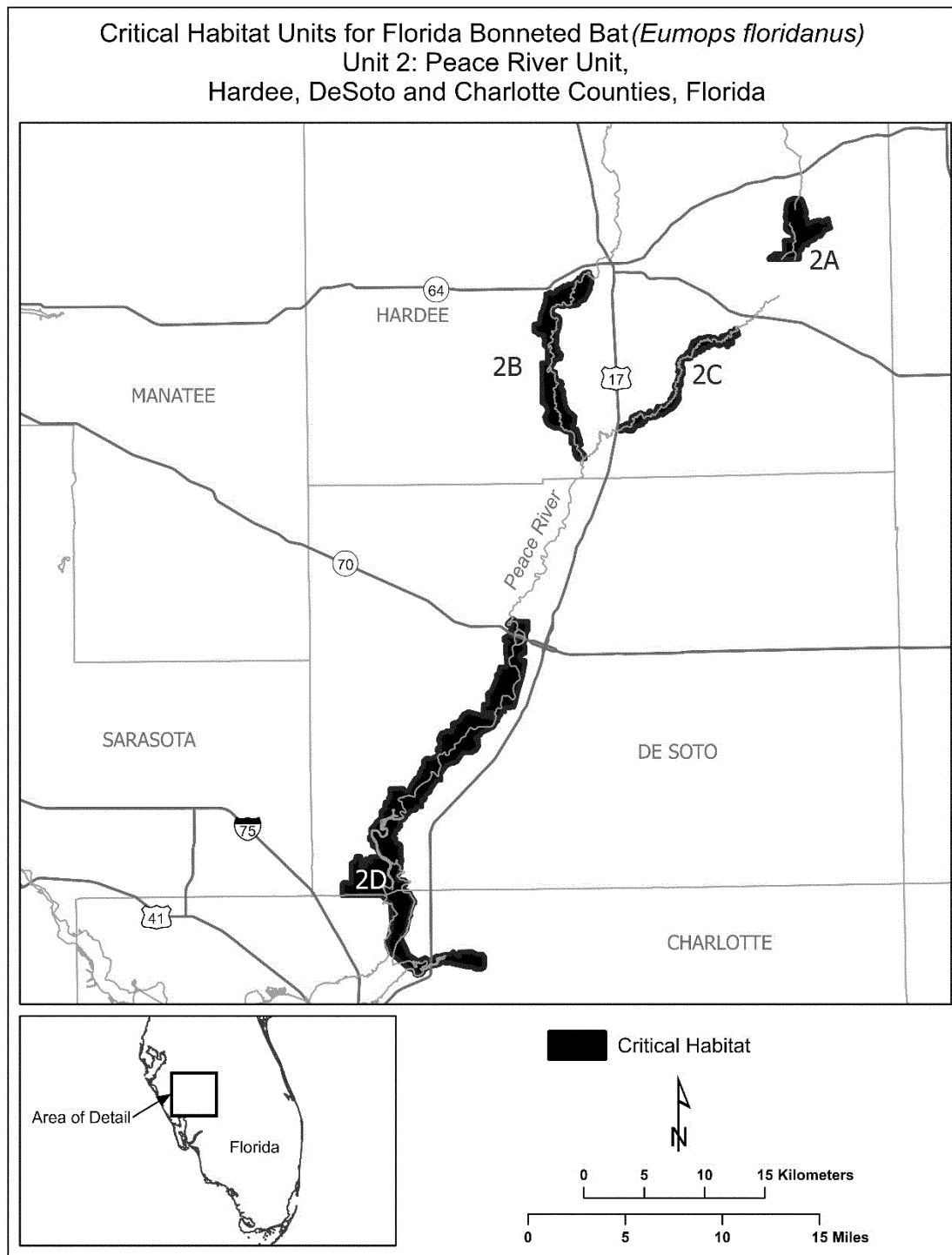


(7) Unit 2: Peace River Unit; Hardee, DeSoto, and Charlotte Counties, Florida.

(i) Unit 2 encompasses 28,046 ac (11,350 ha) of lands in Hardee, DeSoto, and Charlotte Counties, Florida. This

unit consists of four subunits located along portions of the Peace River and its tributaries (e.g., Shell Creek, Charlie Creek), south of CR-64 with the majority west of U.S.-17.

(ii) Map of Unit 2 follows: Figure 3 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (7)(ii)



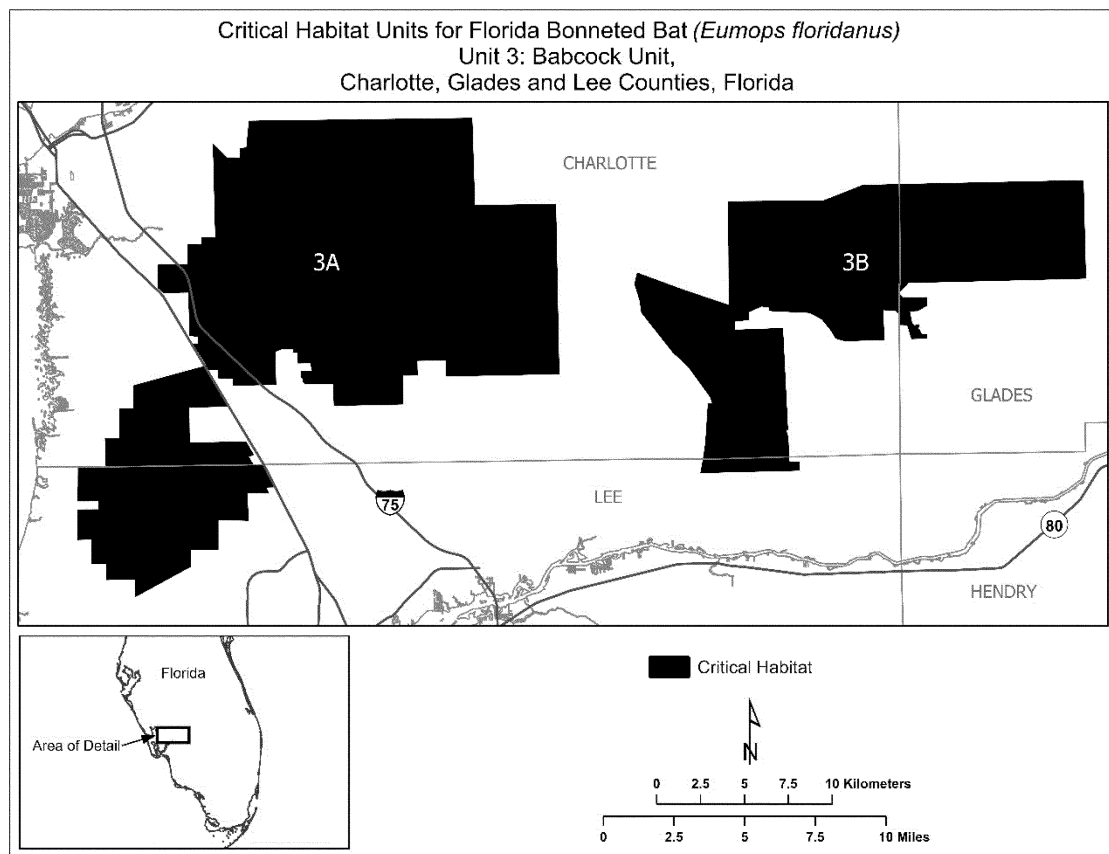
(8) Unit 3: Babcock Unit; Charlotte, Lee, and Glades Counties, Florida.

(i) Unit 3 encompasses 134,677 ac (54,502 ha) of lands in Charlotte, Lee, and Glades Counties, Florida. This unit

consists of two subunits, with the majority of Unit 3 located in Charlotte County, east of I-75; other portions are in northern Lee and western Glades Counties.

(ii) Map of Unit 3 follows:

Figure 4 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (8)(ii)



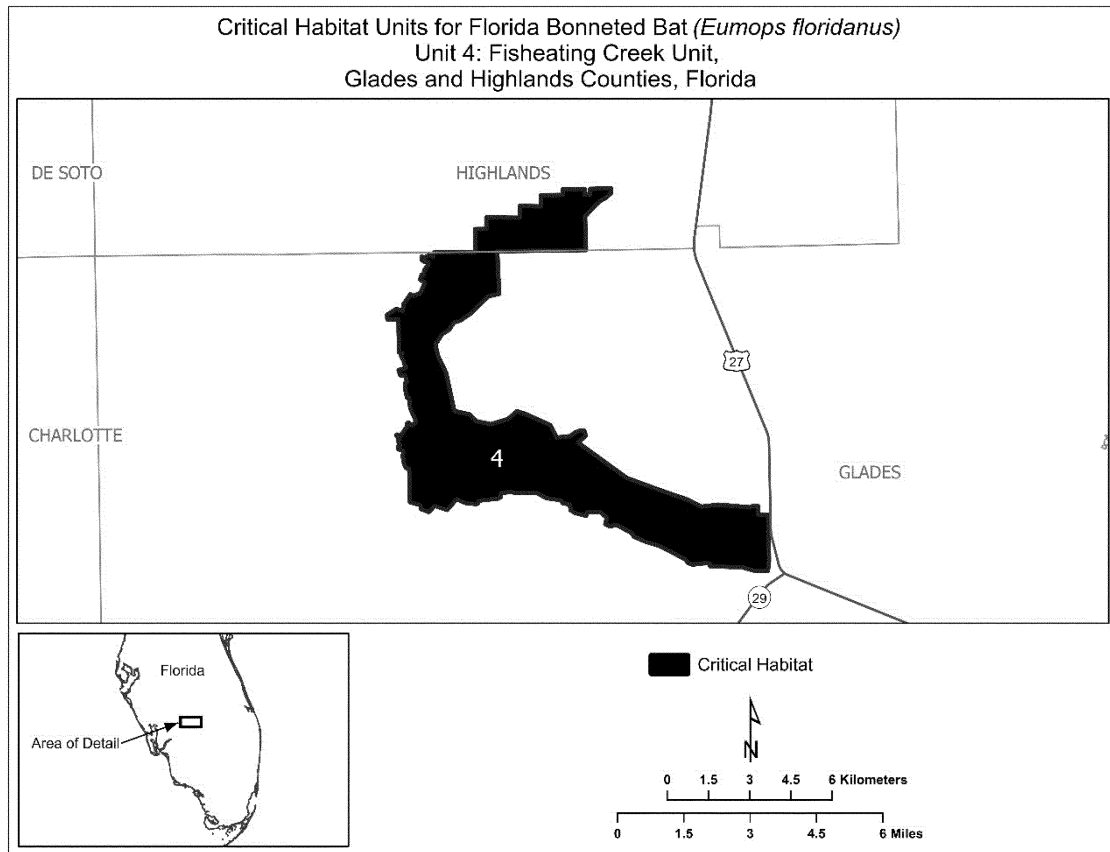
(9) Unit 4: Fisheating Creek Unit; Glades and Highlands Counties, Florida.

(i) Unit 4 encompasses 12,995 ac (5,259 ha) of lands in Glades and Highlands Counties, Florida. The

majority of Unit 4 is located in Glades County, west of U.S.-27; the remainder of the unit extends north into southern Highlands County.

(ii) Map of Unit 4 follows:

Figure 5 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (9)(ii)



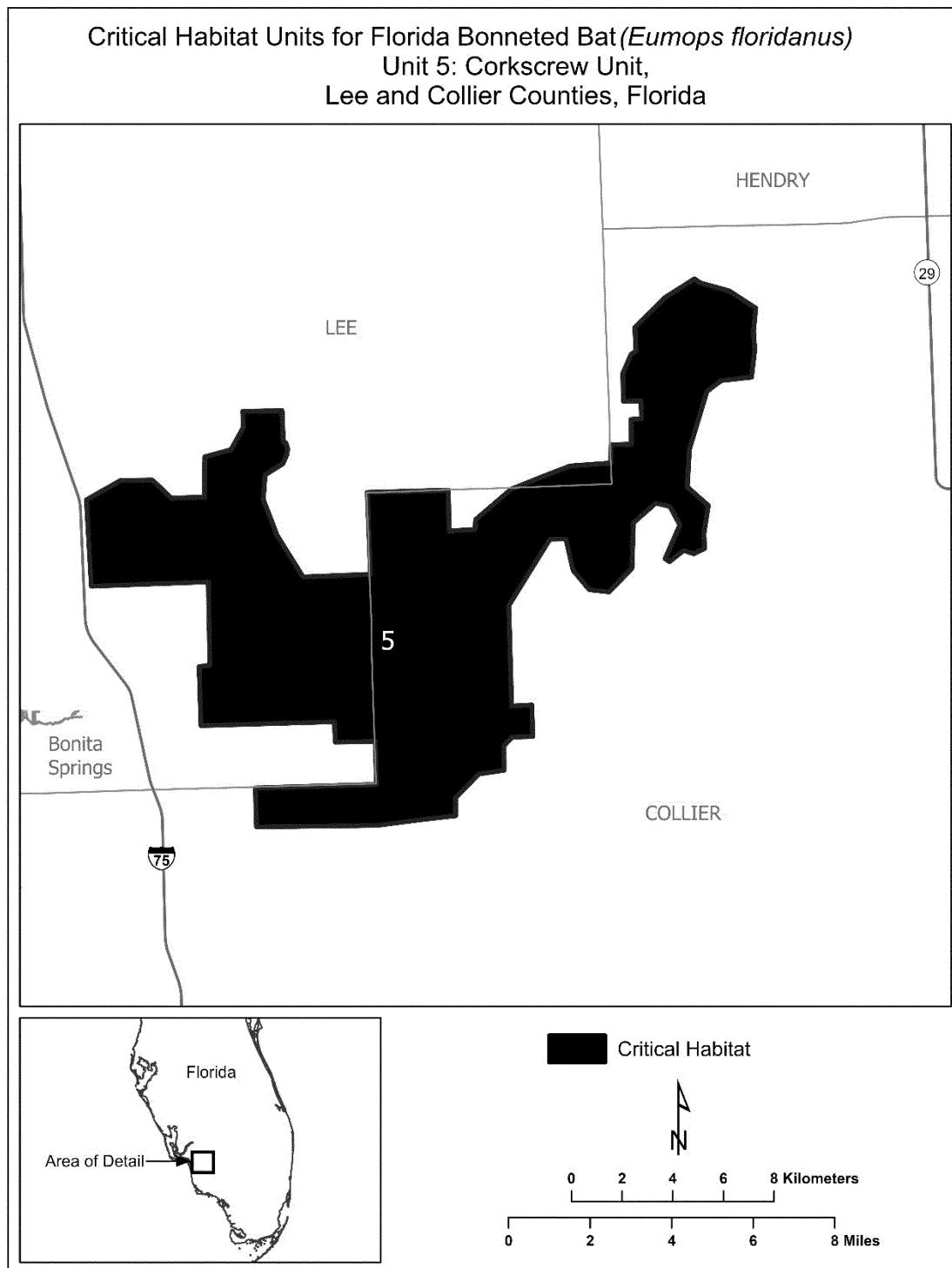
(10) Unit 5: Corkscrew Unit; Lee and Collier Counties, Florida.

(i) Unit 5 encompasses 48,865 ac (19,775 ha) of lands in Lee and Collier

Counties, Florida. This unit straddles the Lee/Collier county line, east of I-75.

(ii) Map of Unit 5 follows:

Figure 6 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (10)(ii)



(11) Unit 6: Big Cypress Unit; Collier, Hendry, and Monroe Counties, Florida.

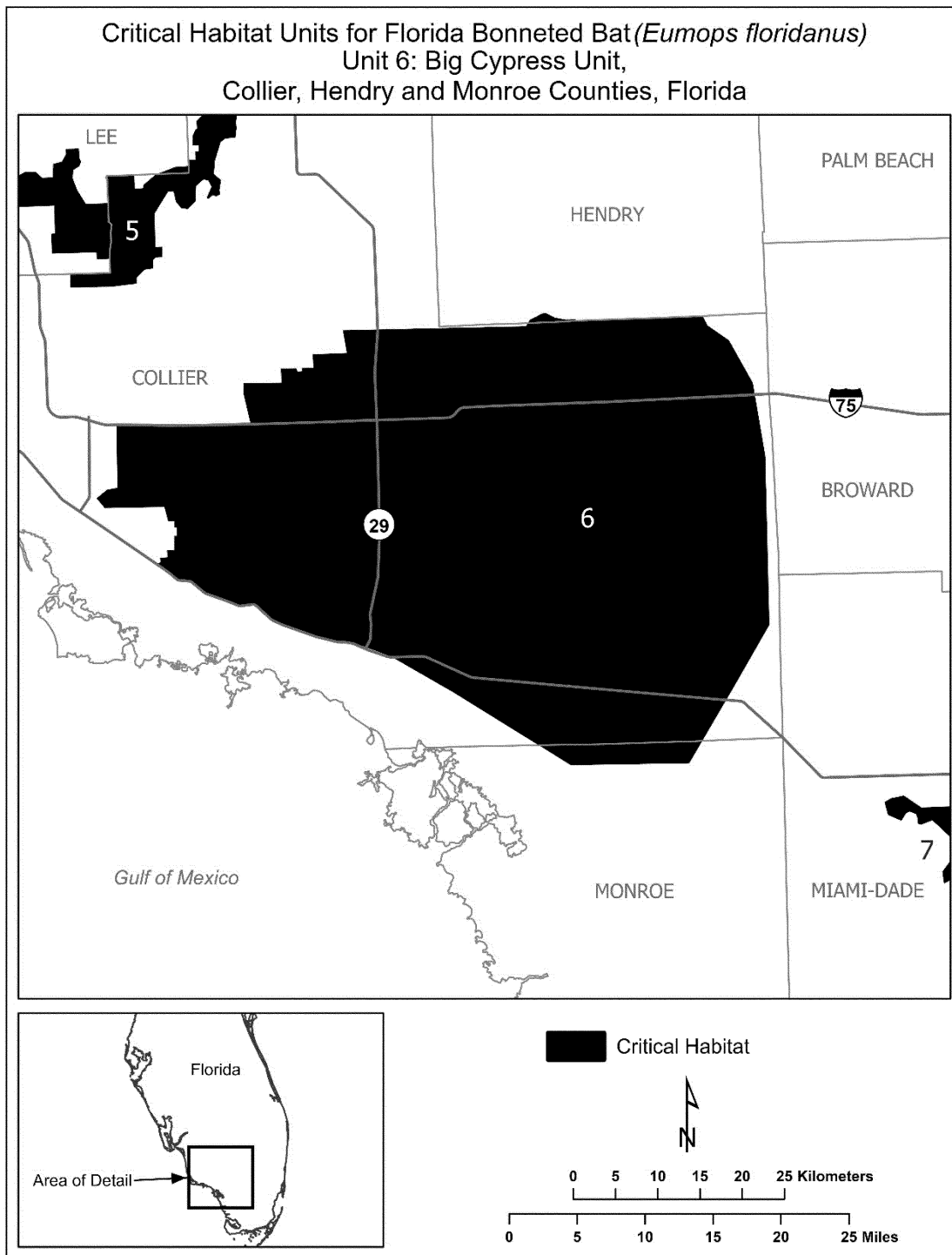
(i) Unit 6 encompasses 714,085 ac (288,980 ha) of lands in Collier, Hendry, and Monroe Counties, Florida. The

majority of Unit 6 is located in Collier County, south of I-75; the remainder of the unit occurs in southern Hendry County and mainland portions of Monroe County.

(ii) Map of Unit 6 follows:

Figure 7 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (11)(ii)





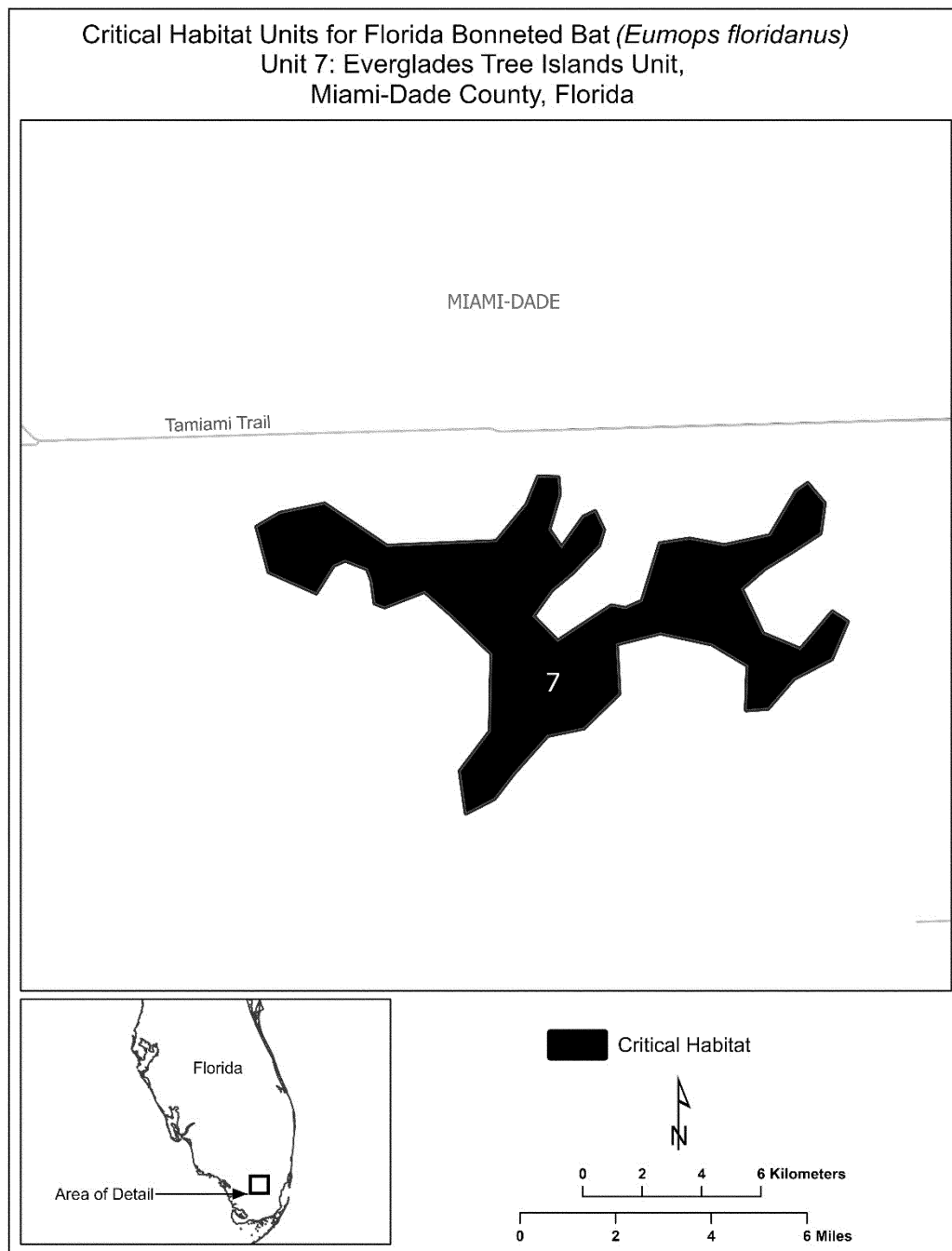
(12) Unit 7: Everglades Tree Islands Unit; Miami-Dade County, Florida.

(i) Unit 7 encompasses 16,604 ac (6,719 ha) of lands in Miami-Dade

County, Florida, south of Tamiami Trail and west of Krome Avenue.

(ii) Map of Unit 7 follows:

Figure 8 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (12)(ii)



(13) Unit 8: Long Pine Key Unit;  
Miami-Dade County, Florida.

(i) Unit 8 encompasses 25,337 ac  
(10,253 ha) of lands in Miami-Dade  
County, Florida, along Main Park Road

(SR-9336) between Mahogany  
Hammock and SW 237th Avenue.  
(ii) Map of Unit 8 follows:

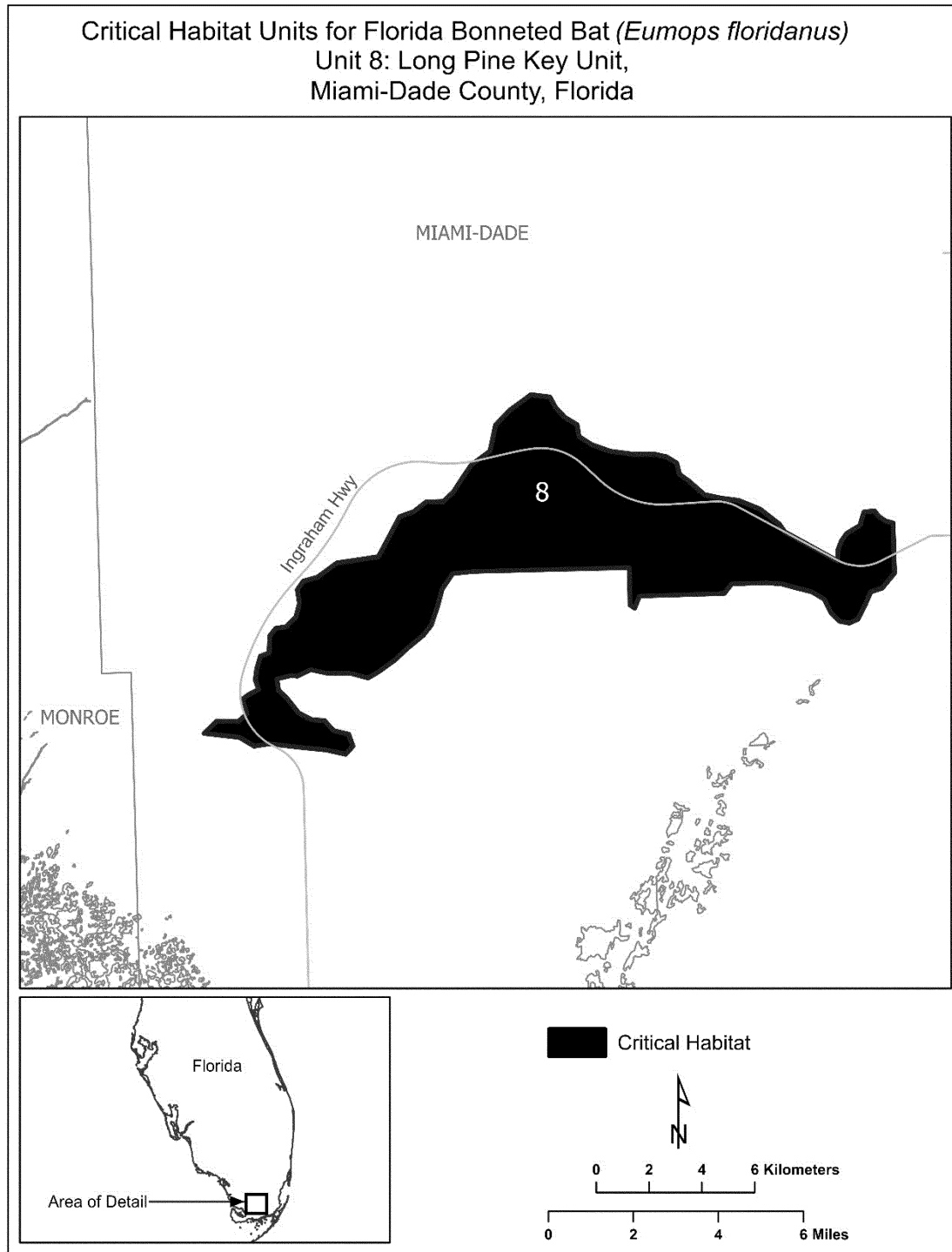


Figure 9 to Florida Bonneted Bat (*Eumops floridanus*) paragraph (13)(ii)

(14) Unit 9: Miami Rocklands Unit; Miami-Dade County, Florida.

(i) Unit 9 encompasses 4,281 ac (1,732 ha) of lands in Miami-Dade County, Florida. This unit consists of 36 subunits located between Tamiami Trail to the north and SR-9336 to the south,

and is surrounded by a dense urban matrix typical of the Miami metropolitan area.

(ii) Maps of Unit 9 follow:

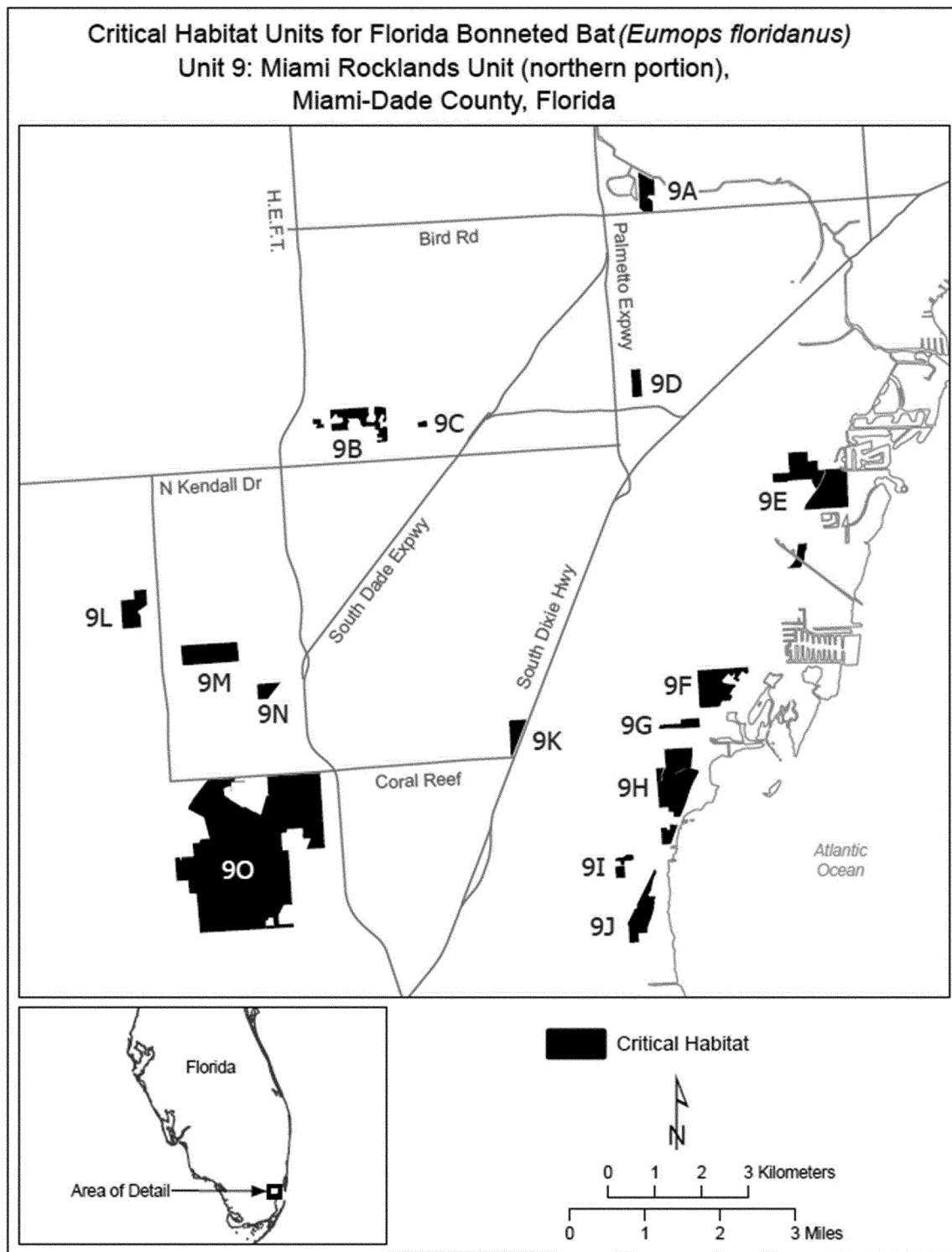


Figure 10 to Florida Bonneted Bat  
(*Eumops floridanus*) paragraph (14)(ii)

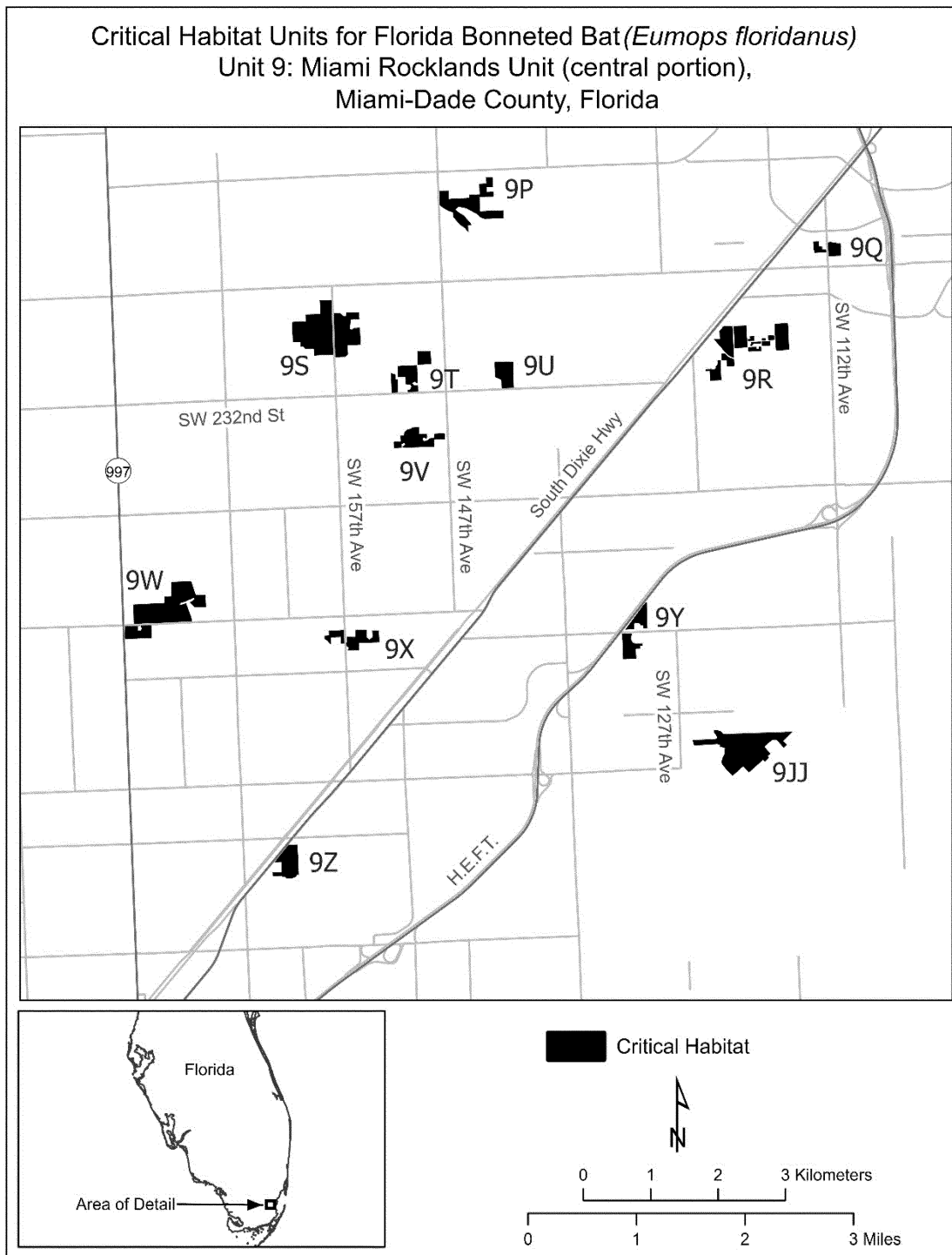


Figure 11 to Florida Bonneted Bat  
(*Eumops floridanus*) paragraph (14)(ii)

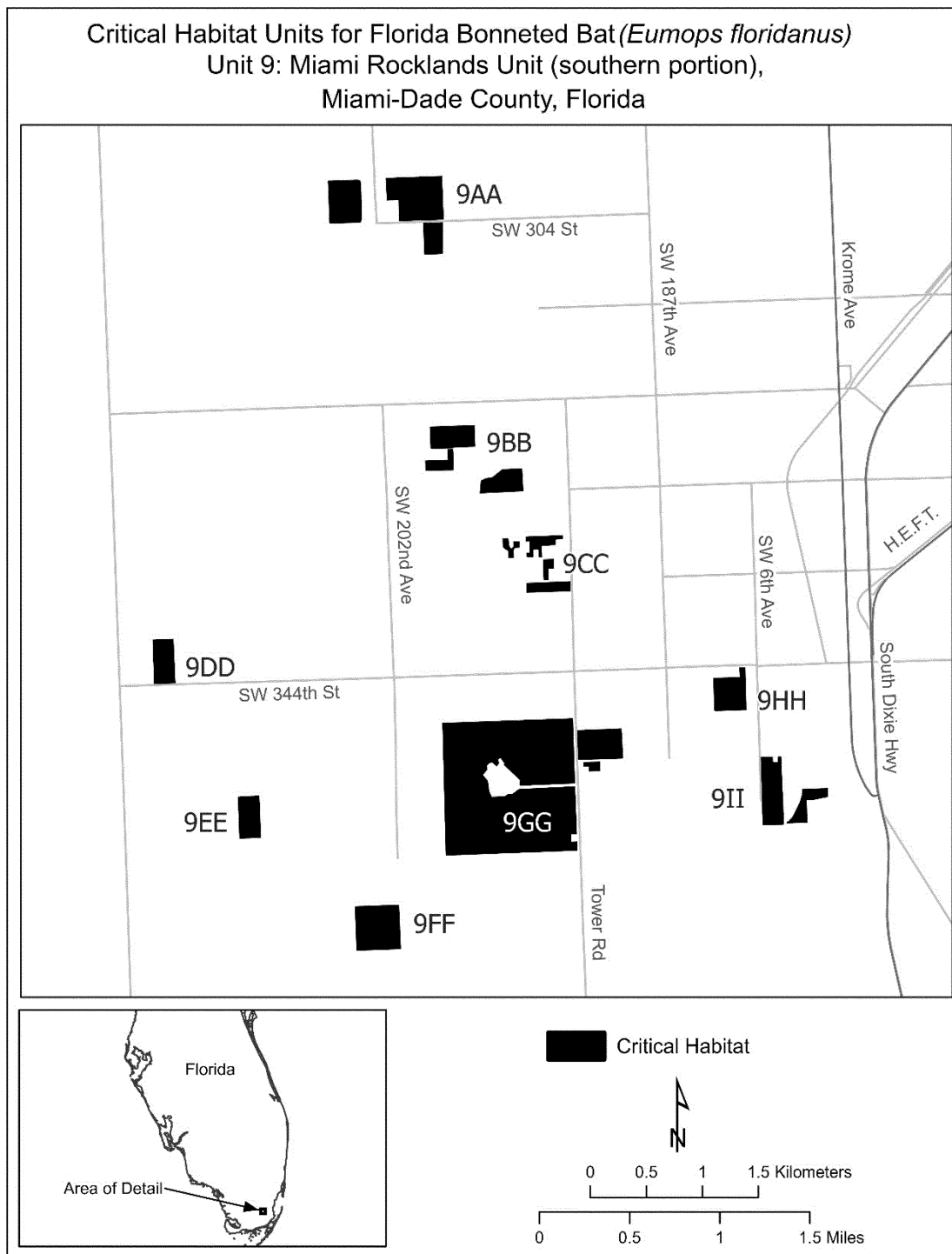


Figure 12 to Florida Bonneted Bat  
(*Eumops floridanus*) paragraph (14)(ii)

\* \* \* \* \*

**Stephen Guertin,**  
Acting Director, U.S. Fish and Wildlife  
Service.

3-6-24; 8:45 am]

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