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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103 and 235

[Docket No. USCBP–2020–0035]

RIN 1651–AB34 CBP Dec. No. 24–08

Harmonization of the Fees and Application Procedures for the Global Entry and SENTRI Programs and Other Changes

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: This final rule amends DHS regulations regarding two CBP trusted traveler programs: Global Entry and Secure Electronic Network for Travelers Rapid Inspection (SENTRI). CBP is amending regulations to make the Global Entry and SENTRI application fees uniform, provide a uniform standard regarding payment of the Global Entry and SENTRI application fees for minors, change the fee payment schedule and certain aspects of the application process for SENTRI, and incorporate SENTRI-specific regulations into DHS regulations. CBP is also amending regulations to address Global Entry expansion to preclearance facilities and eliminate the dedicated commuter lane systems cost fee.

DATES: This rule is effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Rafael E. Henry, Branch Chief, Office of Field Operations, (202) 344–3251, *Rafael.E.Henry@cbp.dhs.gov.*

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I. Background

U.S. Customs and Border Protection (CBP) operates several trusted traveler programs at air, land, and sea ports of entry into the United States that provide certain pre-approved, low-risk travelers dedicated processing into the United States. Participants of CBP trusted traveler programs are vetted travelers who have voluntarily applied for membership, have paid a required fee, and have provided certain personal data to CBP. Travelers who are active participants in a CBP trusted traveler program are considered to be a lower risk than other travelers because CBP conducts vetting both when the participant applies to the program and on an ongoing basis after the applicant becomes an approved participant. This allows CBP to focus its attention and resources on higher-risk travelers. Three of these CBP trusted traveler programs are the Global Entry, Secure Electronic Network for Travelers Rapid Inspection (SENTRI),[1] and NEXUS programs.[2] The Global Entry program allows pre-approved, low-risk travelers dedicated CBP processing at designated airports, currently through the use of automated kiosks.[3] The SENTRI program allows dedicated processing at specified land border ports along the U.S.-Mexico border for pre-approved travelers. The NEXUS program is a joint trusted traveler program between the United States and Canada, the details of which can be found at *http://www.cbp.gov/travel/trusted-traveler-programs/nexus.*

When the Global Entry, SENTRI, and NEXUS programs were established, each program had a separate application process. The information on applicants and participants in each program was contained in separate CBP databases.[4] Over time, due to advances in

[1] SENTRI was previously governed by the Port Passenger Accelerated Service System (PORTPASS) regulations at 8 CFR 235.7, as discussed in further detail below.

[2] The Free and Secure Trade (FAST) program is another CBP trusted traveler program that allows pre-approved commercial truck drivers dedicated processing at select commercial ports of entry at the northern and southern land borders. This program has different vetting standards, is offered to a different type of traveler, and does not have the same benefits as the Global Entry, SENTRI, and NEXUS programs. TSA PreCheck is an additional Department of Homeland Security (DHS) trusted traveler program administered by the Transportation Security Administration (TSA).

[3] CBP published an interpretive rule on August 29, 2023, at 88 FR 59439 as an interim measure to define the term ''kiosk'' to include updated technologies for Global Entry processing in addition to the legacy kiosks referenced in the previous version of the regulations.

[4] Please note that other Federal agencies and foreign partners have access to this data in certain circumstances as described below in the section on privacy and as provided in the privacy documentation.

technology, security concerns, and the expansion of the programs, CBP created a more unified application process and a centralized database. Now, the Global Entry, SENTRI, and NEXUS programs use the same application.

The application for Global Entry, SENTRI, or NEXUS is submitted electronically through the Trusted Traveler Program System (TTP System) website at *https://ttp.cbp.dhs.gov.* This website was formerly the Global Online Enrollment System (GOES) website.[5] CBP uses the same vetting process to assess the risk level of an applicant regardless of whether they apply to the Global Entry, SENTRI, or NEXUS program. CBP officers review the applicant's information during the application processing to ensure that the applicant is in compliance with U.S. customs, immigration, and agriculture laws, regulations, and policies. CBP officers also compare that information against various criminal, antiterrorism, and other government databases. If an applicant appears to meet the eligibility criteria of the specific program during initial vetting, the applicant will be notified via the TTP System that they are conditionally approved. The applicant can then schedule a personal interview with a CBP officer at a time and place designated by CBP or, (for Global Entry and NEXUS only) at a specified ''Enrollment on Arrival'' airport.

An applicant is notified via the TTP System if their application is denied. An applicant may contest their denial or removal from a CBP trusted traveler program by initiating the redress process through the DHS Traveler Redress Inquiry Program (DHS TRIP) at *https://www.dhs.gov/dhs-trip,* or by contacting the Trusted Traveler Ombudsman via a reconsideration request filed through the TTP System at *https://ttp.cbp.dhs.gov.* If the applicant is accepted into the Global Entry, SENTRI, or NEXUS programs, CBP mails the appropriate Western Hemisphere Travel Initiative (WHTI)-approved Radio Frequency Identification (RFID) trusted traveler card to the applicant.[6]

The Global Entry, SENTRI, and NEXUS programs each have a five-year membership period. During this five-year membership period, CBP continually vets participants to ensure that the participating individuals are in compliance with the respective program requirements.

In recent years, these three CBP trusted traveler programs have developed many commonalities and have many reciprocal benefits (for example, eligible participants in any of the three programs may use Global Entry Kiosks at participating airports).[7] Despite these commonalities and shared benefits, certain aspects of the Global Entry, SENTRI, and NEXUS programs vary, including their respective fees, the fees charged to certain minors, the fee payment schedules, and the application processes. CBP has determined that the different fees and application processes are no longer warranted. Moreover, the original fees for each of the three programs are no longer sufficient to recover CBP's costs to administer the programs. Therefore, CBP is now harmonizing the fees and application procedures for these programs.[8]

A. Notice of Proposed Rulemaking

On September 9, 2020, DHS published a notice of proposed rulemaking (85 FR 55597) in the **Federal Register** proposing changes to the regulations in order to harmonize the Global Entry and SENTRI programs, as well as other minor changes (the NPRM). During the 60-day comment period, DHS was notified that it had failed to include a fee study in the docket for the rulemaking. As a result, on December 1, 2020, DHS posted the fee study to the docket and published a notice in the **Federal Register** reopening the comment period for an additional 30 days (85 FR 77016).

DHS received a total of 38 comments in response to the NPRM. The submissions included comments supporting the rule, requesting clarification, providing suggestions for changes, and voicing concerns. After review of the comments, through this final rule, CBP is finalizing the proposed changes in the NPRM without modification.

B. Adoption of Proposed Changes as Final

In this document, CBP is adopting as final the regulatory changes to Global Entry and SENTRI proposed by the NPRM. This rule describes the regulatory changes being made to the Global Entry program as well as the new regulatory provision for the SENTRI program in order to harmonize those two programs. CBP is concurrently issuing a separate **Federal Register** notice modifying the NEXUS program. Pursuant to 8 U.S.C. 1753(c), fee-setting for services and other administrative requirements relating to joint U.S.-Canadian projects such as the NEXUS program are exempt from the requirements of the Administrative Procedure Act and the Paperwork Reduction Act, but fees and forms established for such projects shall be published as a notice in the **Federal Register**.

II. Summary of Changes to the Global Entry and SENTRI Programs

A. Harmonizing the CBP Trusted Traveler Programs

As discussed above, CBP is harmonizing the application fees, the application fees paid by minors, the fee payment schedule, and the application processes for the Global Entry, SENTRI, and NEXUS programs through this final rule and a separate *Federal Register* notice. The changes to the Global Entry and SENTRI programs are described below.

1. Harmonization of the Global Entry and SENTRI Fees

Upon the effective date of this rule, the Global Entry fee will be increased from $100 to $120, and the total SENTRI fee will be decreased from $122.25 to $120.[9] CBP has performed a fee study entitled ''CBP Trusted Traveler Programs Fee Study'' (fee study) to determine the amount of the fee that is necessary to recover the costs associated with processing applications for the Global Entry, SENTRI, and NEXUS programs. CBP determined that, in making the fee uniform across the three programs, a fee of $120 is appropriate and necessary to recover a reasonable portion of these costs.[10] The new $120

[5] Prior to the effective date of this rule, SENTRI applicants could submit a paper application, Form 823S, via mail or in person at a port of entry.

[6] WHTI implements a statutory mandate to require all travelers to present a passport or other document that denotes identity and citizenship when entering the United States. *See* Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 7209, 118. Stat. 3638, 3823, as amended. The goal of WHTI is to facilitate entry for U.S. citizens and authorized foreign visitors while strengthening U.S. border security by providing standardized documentation that enables CBP to quickly and reliably identify a traveler. WHTI-compliant documents include valid U.S. passports, passport cards, trusted traveler program cards, and others.

[7] *See* the NPRM Harmonization of the Fees and Application Procedures for the Global Entry and SENTRI Programs and Other Changes at 85 FR 55597 or Table 1, below, for a full list of shared benefits.

[8] No changes to the NEXUS program are being made through this final rule. CBP is concurrently issuing a separate **Federal Register** notice regarding changes to the NEXUS program.

[9] See detailed explanation in section II. C. of this document.

[10] The NEXUS fee is split between the United States and Canada. The United States will only receive two-thirds of the revenue necessary to cover its costs of the NEXUS program while Canada receives the remaining one-third of the revenue. Please see the fee study entitled ''CBP Trusted Traveler Programs Fee Study,'' included in the docket of this rulemaking (docket number USCBP–2020–0035) for additional details.

application fee applies to new applicants and to participants who are renewing their memberships for both the Global Entry and SENTRI programs. As described below, this non-refundable fee will be paid to CBP at the time of submission of the application through the TTP System. This fee will be reflected in the revised Global Entry fee provision in title 8 of the Code of Federal Regulations (CFR) at 8 CFR 103.7, the new SENTRI fee provision in 8 CFR 103.7, the Global Entry program regulation, 8 CFR 235.12, and the new SENTRI program regulation, 8 CFR 235.14.

2. Exemption of Certain Minors From Payment of the Application Fee

Prior to implementation of this final rule, the Global Entry, SENTRI, and NEXUS programs were not aligned with respect to whether minors [11] were charged an application fee. The Global Entry program charged minors the full application fee, the SENTRI program had a complex family option plan, and the NEXUS program exempted all minors from payment of the application fee. This disparity resulted in families choosing a program based on financial considerations, instead of choosing a program based on the features and benefits of the program. To eliminate this disparity and to better reflect the costs to CBP to operate these programs, CBP is creating a uniform fee for adult applicants as well as a uniform exemption from the fee for certain minors.

Through this final rule, CBP is updating the regulations to provide that, for the Global Entry and SENTRI programs, minors are exempt from the application fee if they apply concurrently with a parent or legal guardian or if their parent or legal guardian is already a participant of the same program to which the minor is applying. Otherwise, the minor will be required to pay the $120 fee.

If the minor's parent or legal guardian is already an existing participant of Global Entry, SENTRI, or NEXUS, the minor will be required to enter the parent or legal guardian's name and trusted traveler number to allow CBP to verify this information. This exemption for minors will minimize the costs for families enrolling in the Global Entry, SENTRI, and NEXUS programs.

All minors applying to the Global Entry, SENTRI, or NEXUS programs, including those who are exempt from payment of the application fee, must have the consent of a parent or legal guardian to be eligible to participate. Further, minors (or their guardians) must complete the application and minors are subject to the requisite vetting, including the collection of fingerprints. For minors, a parent or legal guardian must be present at the time of the interview with a CBP officer.

In order to incorporate this fee exemption for certain minors, CBP is amending several regulations. With respect to the Global Entry program, CBP is amending the fee provision, 8 CFR 103.7(d)(13),[12] and the Global Entry program regulation, 8 CFR 235.12(d)(2). With respect to SENTRI, in order to harmonize the fees charged to minors in the other programs, CBP is eliminating the SENTRI family option plans.[13] The family option plans offered minor children discounted rates or free enrollment based on their parent(s)' application to the SENTRI program. Family option plans are overly complex, do not provide a fee option for minors with legal guardians, and make arbitrary age distinctions that are no longer used by CBP. Accordingly, CBP is now replacing the SENTRI family option plans with new provisions regarding the SENTRI fee in 8 CFR 103.7(d)(16) [14] and the newly added 8 CFR 235.14(c)(3). These provisions incorporate the new SENTRI application fee and the fee exemption for certain minors.

B. Establishment of New Regulation for the SENTRI Program

This document creates a new section in part 235 of title 8 of the CFR that specifically covers the SENTRI program. The new section located at 8 CFR 235.14 for the SENTRI program is modeled after the Global Entry regulations at 8 CFR 235.12 and incorporates the parameters, requirements, and application procedures of the SENTRI program.

The legacy Immigration and Naturalization Service (INS) developed the SENTRI program pursuant to the regulations governing a series of programs referred to as the Port Passenger Accelerated Service System (PORTPASS) (8 CFR 235.7). The requirements and procedures that govern the PORTPASS program were therefore made applicable to the SENTRI program. Because of the transfer of functions from INS to DHS, as well as new technology and the expansion of the CBP trusted traveler programs, the SENTRI program has evolved since its inception under the PORTPASS regulations, and its requirements and procedures have changed. Now, almost all SENTRI applicants apply via the TTP System website using an application that is common to all of the CBP trusted traveler programs. These newer application procedures and eligibility requirements are not reflected in the PORTPASS regulation at 8 CFR 235.7.[15] Additionally, CBP has established CBP trusted traveler enrollment centers, modernized the dedicated commuter lanes (DCLs) utilized by SENTRI participants, and established common methods of redress for all three CBP trusted traveler programs. The current requirement for a personal interview, the updates to the DCLs, and the redress methods are also not reflected in the PORTPASS regulations at 8 CFR 235.7, because the PORTPASS regulations are not specific to SENTRI. As the PORTPASS regulation does not accurately reflect the current requirements and processes for SENTRI, CBP is adding a new section that will specifically provide the SENTRI requirements.

The new section describing the SENTRI program at 8 CFR 235.14 supersedes 8 CFR 235.7 for purposes of the SENTRI program. This new section includes a general description of the SENTRI program, the eligibility requirements, application procedures, redress procedures, and the requirement to pay an application fee as specified in a new fee section located at 8 CFR 103.7(d)(16). Except for the provisions concerning the eligibility requirements, the registration of vehicles and the use of special lanes for approved vehicles, the other provisions (*i.e.,* the disqualifying criteria, application procedures, and the available redress procedures) are the same as in the Global Entry regulation, § 235.12.

[11] For the purposes of this final rule, we use the term ''minor'' to mean a person who is under the age of 18. The choice of this age range for a minor is based on the standard age of adulthood in the United States (18) as well as the age previously used and currently agreed to by Canada concerning exemption of minors from payment of the NEXUS fee.

[12] At the time of publication of the NPRM, this fee provision was located at 8 CFR 103.7(b)(1)(ii)(M). An unrelated United States Citizenship and Immigration Services rule rearranged this section, without substantive edits, so the Global Entry fee provision is now located at 8 CFR 103.7(d)(13).

[13] See the NPRM for detailed background on the previous family option plans for SENTRI. Note that the new SENTRI regulation does not include a family option plan or rely upon a definition of ''family'' for exemption of minors from the application fee.

[14] In the NPRM, CBP proposed to add 8 CFR 103.7(b)(1)(ii)(P), but this section has moved, as noted above, to 8 CFR 103.7(d), so we now add sub-paragraph (16).

[15] As noted in the NPRM, CBP is not removing the PORTPASS regulations because those regulations still serve as the basis for the FAST program.

The eligibility criteria for the SENTRI program are set forth in new § 235.14(b)(1). An individual of any nationality is eligible to apply for the SENTRI program. New § 235.14(c) sets forth the application procedures, including a requirement that a vehicle be approved by CBP to use the SENTRI lanes. In order to drive a vehicle into the United States through the SENTRI lanes, an applicant must register the vehicle by providing information about the vehicle on the application, and CBP will determine whether to approve the vehicle. The approved vehicle will be subject to an inspection when the vehicle enters the United States. This inspection will occur at secondary inspection during one of the vehicle's crossings into the United States at CBP's discretion.[16] It is within CBP's sole discretion whether to approve a vehicle for the SENTRI program.

New § 235.14(e) states that a SENTRI participant will be issued an RFID or other CBP-approved document granting the participant access to specific, dedicated primary lanes into the United States. As noted in the new regulation, users can go to *www.CBP.gov,* specifically *https://www.cbp.gov/travel/trusted-traveler-programs/sentri,* for more information on the location of dedicated SENTRI lanes. The new regulation also sets forth the new fee payment schedule, and a new fee exemption for certain minors. Accordingly, this document adds a new provision, 8 CFR 103.7(d)(16), which sets forth the new fee, the new fee charged to minors, and all relevant fee details for the SENTRI program.

C. Additional Changes to the SENTRI Program

1. Changes to the Fee Payment Schedule for the SENTRI Program

With this final rule, CBP is changing the SENTRI fee payment schedule. Prior to the effective date of this rule, the SENTRI fee was comprised of three separate amounts that an applicant paid at various stages in the application process: an application fee, a DCL systems cost fee (DCL fee), and a Federal Bureau of Investigation (FBI) fingerprinting fee. However, CBP will now require a SENTRI applicant to pay a non-refundable application fee of $120 at the time the applicant submits their application via the TTP System.

As discussed above, CBP performed a new fee study of the Global Entry, SENTRI, and NEXUS programs. Based on this fee study, CBP determined that a uniform fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing with respect to these three programs. This fee study was necessary to reevaluate the existing fees due to the expansion of the programs, advances in technology, and the shared benefits across the programs. For example, as technology has improved, the technology deployed and costs associated with the creation of specific dedicated commuter lanes are no longer necessary. Previously, CBP had to create dedicated permanent lanes for trusted traveler programs. Now, CBP has improved technology allowing every crossing lane to have the capability of processing general traffic and converting into lanes to process trusted travelers.

Therefore, as explained in detail in the fee study included on the docket, CBP has determined that the fee for the Global Entry, SENTRI, and NEXUS programs should only incorporate those costs associated with the application process. The costs of processing the application include the cost of operating and maintaining the TTP System, the FBI fingerprinting fee, the operation of enrollment centers, the vetting process and other relevant costs. The new fee does not include any costs related to DCLs. *See* the CBP Trusted Traveler Programs Fee Study for the entire breakdown of the proposed fee (docket number USCBP–2020–0035).[17] Therefore, CBP has determined that it is no longer appropriate to charge SENTRI applicants the three separate payments under the original fee payment schedule.

As a result of this determination, CBP is adding 8 CFR 103.7(d)(16) to reflect that the $120 fee encapsulates the entire SENTRI fee and is payable at application submission. New 8 CFR 235.14(c)(3) states that the $120 non-refundable SENTRI fee must be paid to CBP at the time of the application submission through the TTP System or other CBP-approved process.

2. Requirement for Electronic Submission of the SENTRI Program Application and Payment of Fees

Prior to the effective date of this final rule, an applicant to the SENTRI program could apply online via the TTP System website or by submitting a paper application, Form I–823S at a port-of-entry or through mail as described in 8 CFR 235.7(a)(4). However, this rule eliminates the paper application as an option for SENTRI applicants, upon this rule's effective date. SENTRI applicants will now be required to apply to the SENTRI program online via the TTP System website, *https://ttp.cbp.dhs.gov.* Eliminating the paper SENTRI application will complete the harmonization of the application submission process for the three programs (Global Entry, SENTRI, and NEXUS), streamline the application process, reduce the burden on CBP officers, and expedite the application process.

Additionally, CBP will require applicants to pay the SENTRI application fee through the TTP System website at the time of online application. The elimination of the paper SENTRI application makes this change possible.

Furthermore, CBP is making changes to the procedures for paying the additional vehicle fee. Although there is not, and will not be, a fee for a SENTRI applicant to register one vehicle for use in the SENTRI lanes during the initial application or renewal process, there is and will continue to be a $42 fee to register any vehicle after the initial application or renewal process. This rule does not change the amount of the additional vehicle fee.

However, this rule changes the way the additional vehicle fee is paid. Previously, a SENTRI applicant or participant could pay this fee electronically via the TTP System or in person at the enrollment center. Upon the effective date of this rule, CBP will require payment of the additional vehicle fee electronically via the TTP System. CBP is making this change because the vehicle inspection is no longer performed at an enrollment center. Therefore, it would be inconvenient for applicants to make an additional trip to the enrollment center solely for the fee payment. Under the new system, if CBP approves the vehicle for use in the SENTRI lanes, the vehicle is subject to a vehicle inspection at secondary inspection during one of the vehicle's crossings into the United States at CBP's discretion. Requiring an applicant or participant to pay the additional vehicle fee online via the

[16] In accordance with the U.S. Government Accountability Office (GAO)'s recommendation regarding its recent review conducted of the CBP trusted traveler programs and CBP's goal of harmonizing the three CBP trusted traveler programs, CBP has eliminated the requirement for vehicle inspections at the enrollment center. See GAO Report 14–483, Trusted Travelers: Programs Provide Benefits, but Enrollment Processes Could be Strengthened (May 2014), available at: *http://www.gao.gov/products/GAO-14-483.*

[17] The study is available at *https://www.federalregister.gov/documents/2020/12/01/2020-26275/harmonization-of-the-fees-and-application-procedures-for-the-global-entry-and-sentri-programs.*

TTP System ensures that there is an electronic record of the payment when the vehicle arrives at secondary inspection. It also further harmonizes the Global Entry, SENTRI, and NEXUS programs.[18] These SENTRI application procedures are included in the new regulations at 8 CFR 235.14(c).

D. Additional Changes to the Global Entry Program

1. 8 CFR 235.12(g)

Global Entry participants must follow certain procedures upon arrival in the United States. These arrival procedures are set forth in 8 CFR 235.12(g). Prior to the implementation of this rule, those procedures required that an arriving passenger proceed to a Global Entry kiosk, follow the on-screen instructions, and declare all articles brought into the United States. For the reasons discussed below, CBP is revising this paragraph to eliminate the reference to ''arrival in the United States''. CBP is also removing the reference, throughout the regulation, to Global Entry ''kiosks'' and replacing the word with the phrase ''Global Entry Processing'' to allow the applicable facilities and technology to evolve without the need to revise the regulations again in the future. For this same reason, CBP is also removing the phrase ''on-screen'' from the phrase concerning following instructions and instead stating that the participant must ''follow all CBP instructions''. CBP is also amending the instructions to remove references to ''customs declaration'' as that is not applicable in all Global Entry locations, as discussed below.

Additionally, this rule updates the regulations for the Global Entry program to be consistent with CBP's expansion of the program to persons traveling to U.S. territories, as well as persons who are processed at preclearance facilities located outside the United States. When the regulation was first issued, CBP did not offer Global Entry at airports located in the U.S. territories or at preclearance facilities in foreign countries. Because of the success of the Global Entry program and CBP's desire to facilitate the travel of additional Global Entry, qualified SENTRI, and NEXUS participants, CBP now offers Global Entry in certain U.S. territories and at all preclearance facilities in foreign countries.

The expansion of Global Entry to U.S. territories allows dedicated CBP processing of Global Entry, qualified SENTRI, and NEXUS participants into these territories. However, pursuant to 19 CFR 7.2(b), CBP does not perform a customs function in certain U.S. territories. Accordingly, CBP does not collect customs declarations in those territories. As the customs declaration does not apply in all Global Entry locations, CBP is amending 8 CFR 235.12(g) to eliminate the reference to customs declarations, instead stating that travelers should follow all CBP instructions when using Global Entry processing (which will include instructions to declare items where that functionality exists).

The expansion of Global Entry to preclearance facilities in foreign countries also allows select foreign airports with preclearance facilities to provide dedicated CBP processing for Global Entry, qualified SENTRI, and NEXUS participants on direct outbound flights to the United States.[19] Preclearance facilities are staffed with CBP officers responsible for conducting customs, immigration, and agricultural inspections of passengers, crew, and their goods bound for the United States. Generally, travelers who are inspected at a preclearance facility are permitted to arrive at a U.S. domestic facility and either exit the U.S. domestic terminal upon landing or connect directly to a U.S. domestic flight without further CBP processing. Because the Global Entry processing may occur at a point prior to the traveler's arrival in the United States, CBP is amending 8 CFR 235.12(g) to eliminate the phrase ''upon arrival in the United States''.

2. 8 CFR 235.12(h)

Section 235.12(h) addresses certain examination and inspection issues related to the use of Global Entry. Prior to the effective date of this rule, the regulation specified that pursuant to the enforcement provisions of 19 CFR part 162, Global Entry participants may be subject to further CBP examination and inspection at any time during the arrival process. As noted above, CBP does not have customs responsibilities at all Global Entry locations. For this reason, CBP is amending 8 CFR 235.12(h) to eliminate the reference to 19 CFR part 162. Part 162 concerns, in relevant part, inspections within the customs territory of the United States. A reference to 19 CFR part 162 is not needed in 8 CFR 235.12(h) because the purpose of the paragraph regarding successful use of Global Entry at any location can be more clearly and accurately stated without specific reference to 19 CFR part 162.

3. Other Amendments to 8 CFR 235.12

In addition, CBP is making several minor changes to the language in 8 CFR 235.12. First, because Global Entry now operates in some U.S. territories and preclearance facilities outside the United States, CBP is removing the phrase ''expedited entry into the United States'' and replacing it with the term ''dedicated CBP processing''. Accordingly, CBP is updating the language in § 235.12(a) and (c) to reflect these changes.

Additionally, the interview procedures for the Global Entry program have changed slightly since its inception. Global Entry applicants were previously required to schedule their interviews at a Global Entry enrollment center. Global Entry applicants now have the option to have their personal interviews at certain participating airports referred to as ''Enrollment on Arrival'' airports. The locations of the participating airports can be found at *https://www.cbp.gov/travel/trusted-traveler-programs/global-entry/enrollment-arrival.* The applicant does not need to schedule the interview in advance but may only use this option if they arrive in the United States on an international flight at one of the ''Enrollment on Arrival'' airports. CBP may also provide additional personal interview options in the future. Therefore, CBP is updating the language in 8 CFR 235.12(e)(1) to eliminate the specific reference to Global Entry enrollment centers.

Finally, CBP no longer suspends a participant's Global Entry membership. CBP either denies an applicant participation under the disqualifying factors in 8 CFR 235.12(b)(2) or, alternatively, a Global Entry participant is removed from the program if CBP determines under 8 CFR 235.12(j)(2) that such action is necessary. To reflect this change, CBP is removing all references to ''suspend,'' ''suspension,'' and ''suspended'' from § 235.12(d)(3), (j), and (k).

E. Conforming Amendment to 8 CFR 103.7

This document eliminates the regulation specifying the amount for the DCL fee at 8 CFR 103.7(d)(1). This fee is for use of DCLs located at specific ports of entry for approved PORTPASS

[18] Global Entry participants may register one vehicle for use in the SENTRI lanes at no additional cost at the time of application, just like SENTRI participants. These participants will continue to pay a $42 fee to register any vehicle after the initial application or renewal process. NEXUS participants must pay the $42 fee for any vehicle registered for use in the SENTRI lanes regardless of the time of registration for the vehicle.

[19] Section 101.5 of title 19 of the CFR (19 CFR 101.5) sets forth a list of CBP preclearance offices in foreign locations. Section 162.8 of title 19 of the CFR (19 CFR 162.8) permits CBP officers stationed in a foreign country at a preclearance facility to exercise such functions and perform such duties as may be permitted by treaty, agreement, or law of the country in which the officer is stationed.

participants in designated vehicles. As discussed above, this fee is one element of the original SENTRI program fee. SENTRI is the only PORTPASS program in which CBP charges the DCL fee. Upon the effective date of this final rule, the entire SENTRI fee will be specified in 8 CFR 103.7(d)(16). Since CBP will no longer have any other programs which charge the DCL fee, this paragraph (d)(1) is unnecessary. Therefore, CBP is removing and reserving 8 CFR 103.7(d)(1).

III. Discussion of Comments Submitted in Response to the NPRM Proposing Changes To Harmonize the Global Entry and SENTRI programs

A. Overview

DHS received a total of 38 comments in response to the NPRM. The submissions included comments supporting the rule, comments requesting clarification on certain aspects of the rule, comments providing suggestions for changes primarily to the fee structure, and comments voicing concerns about the new fees or other parts of the programs. Below is a summary of the comments received, grouped by category, along with CBP's response to the comments.

B. Discussion of Comments

1. Comments Expressing General Support for Rule

Comments: Several commenters supported the proposed change allowing for children to join these programs for free when they apply with or after a guardian. Furthermore, other commenters supported the new fee proposal generally. Some commenters noted that the rule would benefit families (particularly through fee exemptions for minors applying with or after a guardian) and facilitate travel. One commenter stated agreement with raising the price only if it means faster access to an interview.

Response: CBP thanks these commenters for their support. CBP agrees with the commenters that the rule will result in cost savings to some families applying for the Global Entry and SENTRI programs, as described in the rule's economic impact analysis (see section on Executive Orders 12866 and 13563). While this rule will not directly result in faster access to interviews, CBP is always trying to innovate to improve processing of trusted traveler applications.

2. Comments Expressing General Opposition to Rule

Comments: Several commenters expressed general opposition to the rule, including any changes to trusted traveler program fees. Several commenters suggested that Global Entry, SENTRI, and NEXUS fees should remain the same. One commenter also said CBP should better allocate its resources instead of hiking fees. Numerous commenters expressed dissatisfaction with the wait times to get an interview for trusted traveler programs.

Response: As previously stated, and explained in the fee study, CBP's original Global Entry, SENTRI, and NEXUS fees are not sufficient to recover CBP's costs to administer the programs. CBP is working to ensure that all applicants are interviewed in a timely manner. CBP has also implemented a remote interview pilot program,[20] which will reduce the backlog of conditionally approved applicants. This program will provide additional accessible interview options that will decrease the time applications are in the backlog of conditionally approved applications. TTP personnel can conduct virtual interviews at select ports of entry, thereby increasing interview capacity and improving the enrollment process for the future.

3. Comments on Fee Structure

Comments: Several commenters suggested alternative structures to the proposed Global Entry, SENTRI, and NEXUS fee. One commenter suggested that CBP use an application fee scale for Global Entry, SENTRI, and NEXUS membership where adults aged 18 and over pay $120, children aged 0–6 pay $0, children aged 7–11 pay $40, and children aged 12–17 pay $80.

Response: CBP appreciates the commenter's suggestion to adjust the application fee on the basis of age. CBP has considered this alternative fee schedule but will finalize its proposal to waive only the fee of minor applicants with a participant/concurrent applicant parent or legal guardian because this exemption for minors will minimize the costs for families enrolling in the Global Entry, SENTRI, and NEXUS programs. The cost for minors with parents in the program is offsetting, whereas waiving the fee for minors without a parent in the program is not supported by the fee study.

Comment: One commenter opposed exempting certain minors from application fees and instead suggested that the TTP fee structure should closely match the U.S. passport fee structure, where first-time applicants and renewing participants pay different fees, and children are not exempt from application fees. The commenter believes that this fee structure would motivate adults and children to enroll and remain participants of Global Entry, SENTRI, and NEXUS ''in a more fair way.''

Response: CBP appreciates the commenter's suggestion to adjust the application fee based on the U.S. passport fee structure. CBP is finalizing its proposed fee structure instead of adopting the commenter's suggested U.S. passport fee-based structure because CBP generally incurs the same costs to enroll first-time and renewing participants into the Global Entry, SENTRI, and NEXUS programs. Charging lower fees to renewal applicants would unfairly require new participants to subsidize the application costs of existing participants.

Moreover, CBP does not agree with the commenter's suggestion to adopt the U.S. passport fee structure's application fees for children. CBP will waive the Global Entry, SENTRI, and NEXUS application fees for minor applicants with a participant/concurrent applicant's parent or legal guardian to lessen the financial burden of trusted traveler program participation for families. This approach is consistent with the original SENTRI and NEXUS fee exemption and cap for families with minors used to lessen the financial burden of these programs to families. CBP has determined that a harmonized fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for these trusted traveler programs.

Comment: Two commenters suggested alternatives to the proposed fee structure if the NEXUS fee must increase. The first commenter suggested that CBP provide a subsidy to applicants who meet certain income requirements or low-income families. The second commenter asked CBP to raise the NEXUS fee by no more than $10.

Response: This rule does not make changes to the NEXUS fee. Changes to the NEXUS fee are being done through a separate notice in the **Federal Register** published concurrently with this final rule. However, CBP acknowledges that the purpose of this rule and that notice jointly are to harmonize the Global Entry, SENTRI and NEXUS fees, therefore, we are providing Responses regarding the NEXUS fee for transparency purposes here in this rule even though the NEXUS fee is outside the scope of this rule. The proposed fee already lessens the financial burden of

[20] Currently the pilot program is only available for renewal applications. When this final rule become effective, CBP may expand the program to new applications as well.

trusted traveler program participation for families by waiving the application fee for minors who concurrently apply for Global Entry, SENTRI, or NEXUS with a parent or legal guardian or whose parent or legal guardian already participates in one of the programs. Global Entry, SENTRI, and NEXUS, as fee-funded programs, require CBP to recoup cost of administering trusted traveler programs for frequent international travelers through an application fee process. Additionally, the original NEXUS fee is not sufficient to recover CBP's costs to administer the program. Raising the NEXUS fee by only $10 would not sufficiently cover CBP's costs to administer NEXUS. As previously stated, CBP has determined that a harmonized fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for the Global Entry, SENTRI, and NEXUS trusted traveler programs.

Comment: Two other commenters stated that they believe the proposed $120 Global Entry, SENTRI, and NEXUS fee is ''too low,'' with one commenter proposing a fee of $500. However, these commenters did not provide any evidence supporting this statement or suggest any costs that were excluded from the fee's calculation.

Response: CBP's fee study determined that a uniform $120 fee is appropriate and necessary to recover a reasonable portion of costs associated with application processing for the Global Entry, SENTRI, and NEXUS programs. The commenter's suggestion to increase the fee well beyond $120 would not be appropriate.

Comment: One commenter questioned why CBP could not process applicants of Global Entry and SENTRI for the same $50 fee as NEXUS. The commenter stated: ''if CBP and its Canadian counterpart, the Canadian Border Services Agency, can process applications for an individual for $50 and a family for just $100 while also splitting revenue then CBP should be able to do the same for Global Entry and SENTRI users.'' The commenter also asserted that CBP did not account for the cost savings of the Global Entry, SENTRI, and NEXUS programs' expedited processing when calculating the proposed $120 fee and asked CBP to consider these savings to maintain the original $100 Global Entry fee.

Response: The original Global Entry, SENTRI, and NEXUS fees are not sufficient to recover CBP's costs to administer the programs. CBP has determined that a harmonized fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for these trusted traveler programs. As noted in the rule, even though the proposed $120 fee is set to recover the full costs of the Global Entry, SENTRI, and NEXUS programs, the United States will only receive two-thirds of the revenue necessary to cover its costs of the NEXUS program while Canada receives the remaining one-third of the revenue. CBP did not adjust the $120 fee higher to account for this split in revenue because doing so would cause applicants to Global Entry and SENTRI to subsidize the costs of the NEXUS program and the purpose is to harmonize the fees across the three programs. Additionally, CBP recognizes that the Global Entry, SENTRI, and NEXUS programs offer certain cost savings to CBP. These savings represent time cost savings rather than budgetary savings, meaning that CBP dedicates the savings to perform other agency missions, such as facilitating trade and enhancing border security. CBP accounted for the time cost savings of Global Entry, SENTRI, and NEXUS to the agency when creating the programs and used the appropriate net costs to determine the proposed $120 Global Entry, SENTRI, and NEXUS fee.

4. Comments on Expanding Fee Exemption for Certain Minors

Comment: Several commenters requested that CBP adjust its fee exemption for minors. One commenter asked CBP to exempt all minors from paying the Global Entry, SENTRI, and NEXUS application fees. Other commenters suggested that CBP expand its fee exemption to also exempt individuals who are 21 years old and younger and who are enrolled in full-time studies and dependent on their parents for their housing and subsistence from paying the Global Entry, SENTRI, and NEXUS application fees. Another commenter requested that CBP offer application fee waivers to individuals under the age of 26 living at the same address as their parents or legal guardians.

Response: CBP does not agree with exempting all minors from paying the Global Entry, SENTRI, and NEXUS application fees because the fee study that was completed does not support that exemption and a narrower exemption is necessary for CBP to reasonably recover its costs associated with the programs. In calculating the fee, CBP adjusts the per applicant cost to allow minors under the age of 18 free membership in any of the three TTPs, while still recovering all its costs when a parent or legal guardian is already a participant of, or concurrently applying for the Global Entry, SENTRI, or NEXUS trusted traveler program. The cost for waiving the fee for minors is offset when a parent or legal guardian is applying or already enrolled in the program, whereas the cost for waiving fees for minors without a parent or legal guardian applying or already enrolled in the program is not offset and not supported by the fee study. Additionally, CBP does not agree with the suggested fee exemptions for older dependents or individuals under the age of 26 living at the same address as their parents or legal guardians because 18 is the standard age of adulthood in the United States and collecting the fee for all adults is necessary for CBP to reasonably recover its costs associated with the programs. Further, 18 is the age previously used and currently agreed to by Canada concerning exemption of minors from payment of the NEXUS fee, and thus using 18 as the upper age limit for the exemption furthers the goal of aligning the fee structure across programs.

5. Comments Opposing Waiver of Fees for Minor Applicants

Comments: Some commenters opposed exempting minors from paying the Global Entry, SENTRI, and NEXUS programs, with several suggestions that the exemption would degrade the integrity and value of the program. One commenter implied that the proposed fee increase is due to waiving minor applicants.

Response: CBP does not agree with these comments. CBP will offer fee exemptions to minors who concurrently apply for Global Entry, SENTRI, or NEXUS with a parent or legal guardian or whose parent or legal guardian already participates in one of the programs to lessen the financial burden of trusted traveler program participation for families. This practice is consistent with the original SENTRI and NEXUS fee exemption and cap for families with minors used to lessen the financial burden of these programs to families. CBP will continue to maintain the integrity and the value of the Global Entry, SENTRI, and NEXUS programs with this fee change. The trusted traveler programs will continue to develop innovative approaches to process arriving travelers, while facilitating the traveling experience and enhancing passenger security. As more fully discussed in the fee study, the original Global Entry, SENTRI, and NEXUS fees are not sufficient to recover CBP's costs to administer the programs. CBP has determined that a harmonized fee of $120 is appropriate and necessary to recover a reasonable portion of the

costs associated with application processing for these trusted traveler programs. Contrary to the commenter's claims, this fee increase is a result of updated CBP costs, as opposed to the waiver of application fees for minors.

6. Comments About Combining Global Entry, SENTRI, and NEXUS Trusted Traveler Programs

Comments: Several commenters suggested that CBP combine the Global Entry, SENTRI, and NEXUS programs into one trusted traveler program in an effort to decrease costs to CBP and decrease the proposed $120 applicant fee that is based in part on these CBP costs. One of these commenters also noted that this consolidation seems more consistent with the principles set forth in Executive Order 13563.

Response: CBP is not combining the Global Entry, SENTRI, and NEXUS programs into one program at this time because of the differences in eligibility requirements for each respective program. Combining these three programs into one program would require significant changes to each program. Furthermore, any changes to the NEXUS program would require Canada's concurrence.

7. Comments Opposing NEXUS Fee Change

Comments: Several commenters opposed the proposed NEXUS fee increase and believe that it would pose a financial burden for many individual NEXUS participants and families. One of these commenters also stated that the proposed fee will discourage NEXUS program participation. They believe that the fee will subsequently discourage interstate commerce between the United States and Canada, as well as economically beneficial trips between the countries. Another commenter who opposed the NEXUS fee increase stated that increasing the NEXUS application fee would disproportionately burden most American applicants for NEXUS, relative to applicants for Global Entry. Another commenter who opposed the NEXUS fee increase incorrectly asserted that the U.S. Government would profit from the proposed fee increase.

Response: As noted throughout this final rule, this final rule does not make modifications to the NEXUS program. Modifications to that program are being made through a separate notice in the **Federal Register** and are exempt from the notice and comment requirements in the Administrative Procedure Act pursuant to 8 U.S.C. 1753(c). Nonetheless, CBP is providing responses to comments regarding the NEXUS program here for clarity and transparency purposes.

Global Entry, SENTRI, and NEXUS are voluntary trusted traveler programs that provide special benefits to participants beyond those available to general travelers who are not participants of trusted traveler programs. NEXUS is a joint program with Canada and requires an applicant to have an interview with both U.S. and Canadian authorities. The original Global Entry, SENTRI, and NEXUS fees are not sufficient to recover CBP's costs to administer the programs. CBP has determined that a harmonized fee of $120, or equivalent to $24 per year over the five-year membership period, is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for Global Entry, SENTRI, and NEXUS, while still offering reprieve to families with minor applicants. CBP does not believe that a $70 total increase in the NEXUS fee, or a $14 increase per year, will place a large financial burden on NEXUS applicants. Similarly, CBP does not believe that a $140 total increase in the NEXUS fee for families, or a $28 increase per year, will place a large financial burden on families. Nonetheless, each renewing or prospective NEXUS participant and family must determine if the benefits of dedicated CBP processing into the United States would equal or exceed the costs of joining the voluntary program.

CBP does not believe that the increased cost for the NEXUS program will discourage participation in the program as the program will still be beneficial to the vast majority of travelers. Even if a traveler chooses not to participate in the program, it is unlikely that the traveler will forgo land travel to the United States given the only slightly higher wait times for regular travelers along the northern land border. Accordingly, CBP does not believe that the proposed fee increase will discourage international commerce between the United States and Canada or economically beneficial trips between the countries.

Regarding the disproportionate effect on NEXUS users, CBP agrees that the proposed fee will result in a higher application fee increase for current NEXUS participants than current Global Entry participants. However, the original $50 NEXUS fee is much lower than the Global Entry and SENTRI fees, even though it has a nearly identical application process and has even more travel benefits than the Global Entry and SENTRI programs. As previously stated, the original Global Entry, SENTRI, and NEXUS fees are not sufficient to recover CBP's costs to administer the programs. Given these unreimbursed costs and the nearly identical application processes and benefits, CBP is proposing to increase and harmonize the application fee for these trusted traveler programs.

Finally, as noted throughout this document, CBP has determined that a harmonized fee of $120 is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for these trusted traveler programs, without U.S. Government profit.

8. Comments on SENTRI Program Changes

Comments: One commenter asked if moving all applications to the online portal, eliminating the paper application option for the SENTRI program, will cause an undue burden on families who do not own a computer or have access to a reliable internet connection. That commenter also asked if the rule's requirement to pay a one-time non-refundable application fee at the time of application rather than in increments like the original SENTRI application fee structure would increase the financial burden for some families to join SENTRI.

Response: Eliminating the paper SENTRI application will complete the harmonization of the application submission process for the Global Entry, SENTRI, and NEXUS programs,[21] streamline the application process, reduce the burden on CBP officers, and expedite the application process. As stated in the rule's economic impact analysis (see section on Executive Orders 12866 and 13563), CBP recognizes that applying and paying for the SENTRI program and vehicle registrations electronically requires internet access. CBP acknowledges that those without readily available internet access will have to visit a facility that provides internet access to the public, such as a library. However, in 2022, CBP received 232,026 SENTRI applications and 105,063 SENTRI vehicle enrollment applications, all of which were submitted electronically (no paper submissions).[22] Applicants would not likely opt to file electronically if it were more burdensome to do so. For this reason, CBP assumes that no applicants

[21] A NEXUS applicant may submit a paper application to apply to the NEXUS program. This is a Canada Border Services Agency (CBSA) form, not a CBP form. As such, the paper NEXUS application is sent to CBSA, processed, and input by CBSA. CBP's NEXUS application and application submission are completely electronic.

[22] Data provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on February 21, 2023.

will need to travel to access the internet for the purpose of submitting the application or paying the required fees. To the extent that someone does need to travel, they will incur small opportunity and transportation costs. CBP notes that the SENTRI program is a voluntary program and that all individuals must determine if the benefits of receiving dedicated CBP processing either meet or exceed the costs of joining the SENTRI program.

Regarding the application fee structure for families, CBP acknowledges that families who apply to join the SENTRI program will pay more at the time of application under the revised regulations than under the original process. However, these families will generally pay less overall to join the program under the revised regulations. Paying all SENTRI application fees at the time of application instead of in increments is consistent with CBP's goal of harmonizing the Global Entry, SENTRI, and NEXUS application processes. Accordingly, CBP does not support incremental application payments for SENTRI membership.

CBP does not believe that paying relatively more to join SENTRI earlier in the application process under the revised regulations than under the original process will introduce such a large financial burden to families to the extent that the increase will prohibit them from applying to join SENTRI. Nonetheless, each renewing or prospective family participating in SENTRI must determine if the benefits of dedicated CBP processing into the United States would equal or exceed the costs of joining the program.

9. Comments on Definition of Family for Fee Exemption

Comments: Some commenters asked CBP to update its definition of family that is currently included in the regulations for SENTRI fee exemptions to reflect modern family structures. One of these commenters was also confused by the definition of a family in the paragraph under Table 10.

Response: The revised regulatory language for the SENTRI fee exemptions does not include a definition for the word ''family.'' Rather, the revised Global Entry, SENTRI, and NEXUS fee exempts minors who apply concurrently with any parent or legal guardian, or whose parent or legal guardian is already a participant of the program to which the minor is applying, from payment of the applicable fee. CBP has attempted to clarify in this document that this rule does not provide a definition of family for fee exemptions, including clarifying the language in Table 10 highlighted by one commenter. The revised regulations do expand the minors eligible for fee waiver as the regulations will allow a minor applying with or after any parent or guardian to enroll for free.

10. Miscellaneous Comments

Comments: CBP received several miscellaneous comments. One commenter noted that the rule did not state a difference in processing costs for the trusted traveler programs between a minor applicant with a participant/concurrent applicant parent or legal guardian and a solo minor applicant.

Response: Typically, there is no notable difference in CBP processing costs between a minor applicant with a participant/concurrent applicant parent or legal guardian and a solo minor applicant. According to CBP subject matter experts, it takes about the same amount of time for a CBP officer to process a solo minor trusted traveler program applicant as it does for one who applies with a participant/concurrent applicant parent or legal guardian. CBP has included this processing cost information in the economic impact analysis for this final rule. As stated above, the fee study supports that the cost for not charging a fee for minors to apply is only offset when a parent or legal guardian has applied for a trusted traveler program. If a fee was not charged for minors applying and those minors do not have a parent or legal guardian also applying for the program that cost is not offset and therefore that policy is not supported by the fee study.

Comment: One commenter wrongly asserted that the proposed fee increase is a barrier for travelers, particularly minorities and disabled individuals, to ''have the same [travel] experience as everyone else.''

Response: The Global Entry, SENTRI, and NEXUS are voluntary trusted traveler programs that provide dedicated processing to participants beyond those that are provided to general travelers. Not participating in these voluntary programs alone would not prevent travelers from traveling to, entering, or being admitted to the United States. In fact, these programs lead to faster processing overall for participants and non-participants. CBP does not discriminate based on race, gender, disability, or other protected factors and is not increasing the fees as a method for decreasing enrollment in these programs. CBP has determined that a harmonized fee of $120, or $24 per year over the five-year membership period, is appropriate and necessary to recover a reasonable portion of the costs associated with application processing for these voluntary trusted traveler programs, while still offering reprieve to families with minor applicants. Each renewing or prospective Global Entry, SENTRI, and NEXUS participant must determine if the benefits of dedicated CBP processing into the United States would equal or exceed the costs of joining a program.

Comment: One commenter stated that the proposed fee would equal about $160.00 Canadian dollars (CAD) using an exchange rate of $1.00 U.S. dollar (USD) = $1.35 CAD. The same commenter remarked that the cost of NEXUS for dual citizens is well over $500.00 USD.

Response: The harmonized $120 fee captures the costs of the program to CBP, which uses U.S. dollars. As such, this fee is in U.S. dollars. This practice is consistent with other CBP user fees for international travelers. CBP notes that the $120 USD fee for individuals paying in Canadian dollars is dependent on the exchange rate, so it may be higher or lower than $120 CAD. Further, this commenter incorrectly attributed the cost of a U.S. passport and Canadian passport to NEXUS membership. U.S. and Canadian passports are required for dual citizens to travel between Canada and the United States, regardless of NEXUS membership. NEXUS is a voluntary trusted traveler program that provides special benefits to participants beyond those that are available to general travelers. The fee for participation is $120.00 USD.

Comment: A few commenters noted that some credit card companies reimburse the application fees for Global Entry applicants. Some of these commenters also suggested that CBP encourage all credit card issuers to offer reimbursement of the SENTRI and NEXUS enrollment fees.

Response: CBP acknowledges that prior to this rule some private credit card companies have reimbursed the full amount of the $100 fee to Global Entry applicants. Regardless of credit card reimbursement or lack thereof, CBP still receives the payment for the Global Entry fee. Therefore, CBP does not believe reimbursement of these fees by some credit card agencies will have any impact on the analysis of this rule. The suggestion that CBP encourage credit card issuers to offer reimbursement is outside of the scope of this rule.

Comment: One commenter stated that application fees alone inaccurately capture the true cost for travelers to obtain Global Entry and NEXUS memberships.

Response: The commenter is correct that application fees alone do not reflect the true cost for travelers to obtain Global Entry and NEXUS memberships. However, the rule will not affect the Global Entry and NEXUS application processes, and CBP expects that this rule will not result in changes to any potential costs placed on applicants beyond the application fees. The minor regulatory changes to Global Entry processing reflect current practice. Thus, this rule will not result in new costs or benefits. As such, CBP focused on the economic impacts of the increased Global Entry fee in the rule's economic impact analysis, along with the effects of the changes to the SENTRI program. CBP has clarified in the final rule's economic impact analysis that the minor regulatory changes involving Global Entry processing reflect current practice and will therefore not introduce new costs or benefits.

Comment: One commenter noted that CBP inadvertently failed to post the fee study in the docket when the Harmonization of the Fees and Application Procedures for the Global Entry and SENTRI Programs and Other Changes Notice of Proposed Rulemaking (NPRM) was first published.

Response: To correct this omission, on December 1, 2020, CBP published the fee study in the docket and reopened the comment period for the NPRM and fee study for an additional 30 days.

Comment: One commenter noted that the economic impacts of the COVID–19 pandemic, such as decreased travel, high unemployment, and financial uncertainty, could nullify the Global Entry, SENTRI, and NEXUS applicant forecasts upon which the proposed rule is based.

Response: CBP acknowledges that the COVID–19 pandemic previously led to a drop in travel to the United States and negative economic impacts. For that reason, CBP continues to use the 2015 to 2019 Global Entry, SENTRI, and NEXUS applicant data as the basis for its proposed fee for these programs. That data does not reflect an abnormal change in Global Entry, SENTRI, and NEXUS program memberships and results in a fee that still recovers a reasonable portion of costs associated with application processing for these trusted traveler programs. If CBP adjusted the data to reflect a smaller number of Global Entry, SENTRI, and NEXUS applications than currently used to calculate the $120 fee, the Global Entry, SENTRI, and NEXUS fee would be even higher than the revised fee of $120. The higher fee would become a larger financial burden for individuals interested in joining these trusted traveler programs or renewing their program memberships. The larger burden would be a result of the fact that the $120 Global Entry, SENTRI, and NEXUS fee, as described in the fee study, is based in part on fixed costs not dependent on the number of Global Entry, SENTRI, and NEXUS applicants. CBP further notes that the agency is within its rights to charge less than the full cost recovery of the Global Entry, SENTRI, and NEXUS programs to the agency.

Comment: One commenter said that making the cost of the application free for minors who apply with their parents will cause problems since parents will now not hesitate to enroll kids for free. The commenter suggested this will lead to many problems with getting approvals for the programs, namely, longer wait times both for getting conditionally approved and getting interviews. This commenter said interview centers are already backed up for months and that it is almost impossible to get an interview, so this change will only add to the unavailability of appointments.

Response: CBP is always working on trusted traveler program innovations and process improvements to ensure that the programs remain efficient with the latest technologies so that processing times for all travelers are reduced. CBP is committed to enhancing the customer experience to include making arrival processing easier for family units and more accessible to a greater number of individuals. CBP has expanded hours at enrollment centers, expanded the use and efficiency of Enrollment on Arrival, increased the number of renewal applicants eligible for approval without a new interview or using a remote interview and improved transparency and consistency related to the scheduling process.

IV. Statutory and Regulatory Requirements

A. Executive Orders 12866 and 13563

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory 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. CBP anticipates that during the five-year period of analysis, this rule will result in approximately $210 million in net transfer payments to CBP, or on average $51.2 million annually (assuming a 7 percent discount rate and using 2022 U.S. dollars).

The Office of Management and Budget (OMB) has not designated this rule a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. CBP has prepared the following analysis to help inform stakeholders of the impacts of this final rule.

1. Purpose of the Rule

CBP operates several voluntary trusted traveler programs that afford pre-approved travelers with dedicated processing when traveling to the United States. These programs are the Global Entry program, SENTRI program, and NEXUS program.[23] When originally developed, each program had its own application process and participants of one program could not take advantage of the benefits of other programs. As the programs expanded, CBP determined that it was necessary to unify certain aspects of the three trusted traveler programs. Currently, the programs have a nearly identical application process and certain participants of any one of the programs can enjoy nearly all the benefits of the other two trusted traveler programs. However, regulatory changes are needed to unify certain aspects of the programs.

Although the trusted traveler programs all offer nearly reciprocal benefits with each other, the original Global Entry, SENTRI, and NEXUS fees are $100, $122.25, and $50, respectively. In addition to leading to potential confusion and charging different prices for nearly the same product for prospective and renewing trusted traveler program participants, these fees are no longer sufficient to recover CBP's costs to administer the programs. Instead, all unreimbursed costs are currently covered by appropriated funds. As discussed below, CBP has determined that a harmonized fee of $120 is appropriate and necessary to

[23] As stated in footnote 2, the FAST program is another CBP trusted traveler program that allows pre-approved commercial truck drivers dedicated processing at select commercial ports of entry at the northern and southern land borders. This program has different vetting standards, is offered to a different type of traveler, and does not have the same benefits as the Global Entry, SENTRI, and NEXUS programs. TSA PreCheck is an additional DHS trusted traveler program administered by the TSA.

recover a reasonable portion of the costs associated with application processing for these trusted traveler programs.

Beyond harmonizing the fee for Global Entry and SENTRI programs [24] so that CBP recovers a reasonable portion of the costs of these programs, this final rule CBP will also implement a number of other changes. CBP will revise the SENTRI fee payment schedule and certain aspects of the application process, including incorporating the SENTRI program into DHS regulations. CBP will also exempt minors who are applying to Global Entry or SENTRI from the fee when one or more parents or legal guardians are already a participant of or concurrently applying for the same program. Additionally, CBP will eliminate the DCL fee currently applicable only to approved SENTRI participants and will require all SENTRI program applications and additional SENTRI program vehicle registrations fees to be paid for electronically. Finally, Global Entry regulations will also be updated in this final rule to be consistent with the program's expansion to certain U.S. territories and preclearance facilities.

2. Background

When originally developed, the Global Entry, SENTRI, and NEXUS programs each had its own application process and participants in one program could not take advantage of the benefits of other programs. As the programs expanded, CBP determined that it was necessary to unify certain aspects of the three trusted traveler programs. Currently, the programs have a nearly identical application process and participants in any one of the programs can enjoy nearly all the benefits of the other two trusted traveler programs. As shown in Table 1 below, certain NEXUS and SENTRI participants are eligible to use Global Entry kiosks and Global Entry participants are eligible to use NEXUS lanes and marine reporting locations when entering the United States, as well as SENTRI lanes. Additionally, SENTRI participants are permitted to use NEXUS lanes and marine reporting locations when entering the United States and NEXUS participants are permitted to use SENTRI lanes.

TABLE 1—TRUSTED TRAVELER PROGRAMS' SHARED BENEFITS

Dedicated processing through	Trusted traveler program		
	SENTRI	Global entry	NEXUS
SENTRI Lanes	X	X	X
Global Entry Kiosks	*X	X	**X
NEXUS Lanes (into U.S.)	X	X	X
NEXUS Marine Reporting Stations (into U.S.)	X	X	X
NEXUS Lanes (into CAN)			X
NEXUS Marine Reporting Stations (into CAN)			X
Automated Air Kiosks (into CAN)			X

*U.S. citizens and lawful permanent residents may use this benefit. Mexican nationals may only use this benefit upon successful completion of a thorough risk assessment by the Mexican government.

**NEXUS participants may use this benefit if they meet all Global Entry processing requirements, including having a valid travel document (*e.g.,* book passport).

Despite the nearly identical application process and the nearly reciprocal benefits each program has with one another, each of these trusted traveler programs still had its own fee. As such, CBP is harmonizing the application fee for these three trusted traveler programs. CBP has determined that a fee of $120 is necessary in order to recover a reasonable portion of the costs associated with application processing for the Global Entry, SENTRI, and NEXUS trusted traveler programs.[25] The fee study documenting the fee change, has been included on the docket of this rulemaking (docket number USCBP–2020–0035).[26] Table 2 presents the components of the new harmonized fee.

TABLE 2—NEW TRUSTED TRAVELER PROGRAMS FEE

(1) TTP System/GES	$17.17
(2) FBI Fingerprinting	14.50
(3) Enrollment Center	52.54
(4) Vetting Center	14.47
(5) RFID Card	15.87
(6) HQ Staff, Call Center, and Miscellaneous	2.54
Sum	117.09
Calculated Fee, rounded up to the nearest $5.00	120.00

Although CBP is harmonizing the fee for the Global Entry, SENTRI, and NEXUS trusted traveler programs, this rule only concerns changes to the fee for the Global Entry and SENTRI trusted traveler programs. Pursuant to 8 U.S.C. 1753(c), the fee setting of a joint U.S.-Canada project, such as the NEXUS program, is exempt from the Administrative Procedure Act. Accordingly, changes to the NEXUS fee are being announced in a separate **Federal Register** notice.

Below are brief descriptions of the Global Entry and SENTRI trusted traveler programs and an explanation of their original fee structures (for details regarding the NEXUS trusted traveler program, please refer to the NEXUS website at *http://www.cbp.gov/travel/trusted-traveler-programs/nexus*):

a. SENTRI

The SENTRI program allows pre-approved, low-risk, travelers dedicated CBP processing at specified land border ports along the U.S.-Mexico border. The

[24] Changes to the NEXUS fee are being announced in a separate **Federal Register** notice.

[25] CBP notes that ⅔ of the revenue from NEXUS applicants goes to the United States government and the remaining ⅓ of revenue from NEXUS applicants goes to the Canadian government. Therefore, even though the fee calculated below is set to recover the costs of the program, the United States will only receive ⅔ of the revenue necessary to cover its costs of the NEXUS program. CBP considers the revenue to be sufficient to cover a reasonable portion of the costs. CBP has not adjusted the fee higher to account for this because doing so would cause applicants to SENTRI and Global Entry to subsidize the costs of the NEXUS program.

[26] During the NPRM for this rule, CBP used the estimates on enrollment numbers for SENTRI and Global Entry programs from 'The CBP Trusted Traveler Programs Fee Study.' As significant time has passed, CBP has updated the historical and projected enrollment numbers for SENTRI and Global Entry programs in the economic analysis for this final rule. The harmonized $120 fee calculated in the 'The CBP Trusted Traveler Programs Fee Study,' was agreed to with Canada. As it was based on recent, though not completely up to date, data, CBP is not revising the fee amount in this rule.

SENTRI program originally had a fee of $122.25. This fee was comprised of three parts: a $25 application fee, an $82.75 DCL fee, and a $14.50 FBI fingerprinting fee for applicants 14 years of age or older.[27] Prior to the effective date of this rule, unlike Global Entry and NEXUS, SENTRI applicants did not pay the entire fee when submitting their application. Initially, a SENTRI applicant was only required to pay the $25 application fee. Payment of the $14.50 FBI fingerprinting fee and the $82.75 DCL fee was only required if a SENTRI applicant was conditionally approved for membership in the program.

In order to lessen the financial burden for families applying to the SENTRI trusted traveler program, CBP placed a cap on the maximum amount that a family was required to pay for the application and DCL components of the SENTRI program fee. As shown in Table 3, these caps were $50 and $165.50, respectively, or the rough equivalent to the cost of two applicants. For the purposes of the SENTRI program prior to this rule, CBP considered a family to be one or more parents or legal guardians, and minors under 18 years of age.[28] In fiscal year (FY) 2022, CBP received $15.6 million in SENTRI fee revenue.[29] [30]

TABLE 3—ILLUSTRATIVE SENTRI FEE FAMILY OPTION PLAN

Fee component	Family member	Cost
Application	Parent or Legal Guardian	$25 per person until the maximum family cap of $50 is reached.
	Parent or Legal Guardian.	
	Minors 14–17 years of age.	
	Minors under 14 years of age.	
DCL	Parent or Legal Guardian	$82.75 per person until the maximum family cap of $165.50 is reached.
	Parent or Legal Guardian.	
	Minors 14–17 years of age.	
	Minors under 14 years of age.	
FBI Fingerprinting	Parent or Legal Guardian	$14.50.
	Parent or Legal Guardian	$14.50.
	Minors 14–17 years of age	$14.50.
	Minors under 14 years of age	$0.

Note: for the purpose of illustration this table shows a family as up to two parents with minors of differing ages. However, CBP acknowledges that a family could be a single parent with minors of differing ages or a legal guardian(s) with minors of differing ages. Also, see footnote 15, above, noting that the new SENTRI regulation does not rely upon a definition of ''family.''

b. Global Entry

The Global Entry program allows pre-approved, low-risk travelers dedicated CBP processing at designated airports. The Global Entry program originally had a fee of $100. In FY 2022, CBP received $252.7 million in Global Entry fee revenue.[31]

3. Costs

This final rule harmonizes the required fee when applying for membership in the Global Entry and SENTRI trusted traveler programs. The Global Entry and SENTRI programs originally had fees of $100 and $122.25, respectively. As discussed above, CBP has determined that a fee of $120 is necessary in order to recover a reasonable portion of the costs associated with application processing for CBP's trusted traveler programs. In addition to the fee changes, CBP is revising the SENTRI fee payment schedule; exempting minors from paying the fee if one or more parents or legal guardians are already a participant of or concurrently applying for Global Entry or SENTRI; requiring all SENTRI applicants to apply and pay electronically; requiring that additional SENTRI program vehicle registrations be paid for electronically; and eliminating the DCL fee currently applicable to only approved SENTRI participants.

When assessing costs of final rules, agencies must take care to not include transfer payments in their cost analysis. As described in OMB Circular A–4, transfer payments occur when ''. . . monetary payments from one group [are made] to another [group] that do not affect total resources available to society.'' [32] Examples of transfer payments include payments for insurance and fees paid to a government agency for services that an agency already provides.[33] The Global Entry and SENTRI trusted traveler programs are established programs that already require a fee in order to participate. Prior to this final rule, fees did not cover the entire costs to CBP for administering these programs and unreimbursed costs were covered by appropriated funds. Accordingly, the fee changes, including changes in who is exempt, to the trusted traveler programs do not increase overall costs to society as these unreimbursed costs are already being paid by appropriated funds. As such, a change to the fee associated with each program is considered a transfer

[27] Data provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on May 23, 2018. Also, on March 19, 2012, the FBI fingerprinting fee decreased from $17.25 to $14.50 (76 FR 78950).

[28] Note that the new SENTRI regulation implemented in this final rule does not rely upon a definition of ''family'' or include a ''family option'' plan. Rather, any minor applying concurrently with a parent or legal guardian or whose parent or legal guardian is already a participant of SENTRI is exempt from payment of the SENTRI application fee.

[29] Data provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on February 7, 2023.

[30] In addition to requiring individuals to apply to the SENTRI program, CBP requires that vehicles be approved by CBP for use in SENTRI lanes. The SENTRI program fee includes the registration of one vehicle during the initial application or renewal process. A fee of $42 is required for any additional vehicle to be registered for use in SENTRI lanes (maximum of four vehicles) or for the participant to register his or her first vehicle after the initial application or renewal process. The total SENTRI fee revenue includes fees associated with vehicle registration. This rule will not change these aspects of the SENTRI program.

[31] Revenue data provided by CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on February 7, 2023.

[32] OMB Circular A–4: *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf.*

[33] Regulatory Impact Analysis: Frequently Asked Questions (FAQ): *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/assets/OMB/circulars/a004/a-4_FAQ.pdf.*

payment. CBP does recognize that the fee changes may have a distributional impact on individuals and families applying or renewing their membership in either the Global Entry or SENTRI trusted traveler program. In order to inform stakeholders of all potential effects of the final rule, CBP has analyzed the distributional effects of the final rule below in section ''V. A. 4. Distributional Impacts.''

In addition to adjusting the fees required for membership in the Global Entry and SENTRI trusted traveler programs, CBP is requiring that all SENTRI applicants apply and pay the requisite application fee electronically and pay the vehicle registration fee electronically.[34] CBP estimates that it takes the same amount of time to complete the electronic SENTRI application and make an electronic payment for the application and registration fee as it does to complete a paper SENTRI application and vehicle registration and make a payment by cash or check at an enrollment center. CBP believes that requiring an electronic application and payment is necessary to increase efficiency of the SENTRI program application and SENTRI vehicle registration process. Additionally, this further harmonizes the three trusted traveler programs because electronic applications and payments are a current CBP requirement for the Global Entry and NEXUS programs.[35] CBP recognizes that applying and paying for the SENTRI program and vehicle registrations electronically requires internet access and those without readily available internet access will have to visit a facility that provides internet access to the public (*e.g.,* a library). However, in 2022, CBP received 232,026 SENTRI applications and 105,063 SENTRI vehicle enrollment applications, all of which were submitted electronically (no paper submissions).[36] Applicants would not likely opt to file electronically if it were more burdensome to do so. For this reason, CBP assumes that no applicants will need to travel to access the internet for the purpose of paying the required fee. To the extent that someone does need to travel to obtain internet access, they will incur small opportunity and transportation costs. CBP notes that the SENTRI program is a voluntary program and that all individuals must determine if the benefits of receiving dedicated CBP processing either meet or exceed the costs of joining the SENTRI program.

In addition to shifting the applications and vehicle registrations to be completed electronically, CBP is codifying SENTRI vehicle inspection changes that have previously been implemented. Formerly, the SENTRI vehicle inspection took place at the enrollment center. On November 17, 2015, CBP changed this inspection process and notified affected applicants and SENTRI participants of the new process by email. Under the new vehicle inspection process, which is still in effect, a vehicle must be approved by CBP for use in the SENTRI lanes and subsequently inspected at secondary inspection during one of the vehicle's crossings into the United States at CBP's discretion. Despite not having an inspection at the time of enrollment, vehicles remain subject to inspections at the time of crossing through random inspection. The SENTRI vehicle inspection changes resulting from this rule will not result in additional benefits or costs to CBP trusted traveler program participants because the changes have already been implemented and because no additional trip to an enrollment center is needed for the inspection.

Along with the regulatory changes discussed above, CBP will implement changes to the information collection associated with the trusted traveler programs (OMB control number 1651–0121). The change will require a minor applying for membership in either the Global Entry or SENTRI trusted traveler program whose one or more parents or legal guardians are already a participant of the same program to submit his or her parents' or legal guardians' names and trusted traveler number. As discussed below, in section ''V. E. Paperwork Reduction Act,'' CBP estimates that this information collection will take approximately two minutes (0.0333 hours). CBP's trusted traveler database does not track which minors concurrently apply to a trusted traveler program with one or more parents or legal guardians and which minors apply after one or more parents or legal guardians joined a trusted traveler program. CBP subject matter experts from CBP's Office of Admissibility and Passenger Programs estimate that two percent of minors (or parents/legal guardians acting on their behalf) apply for membership in a trusted traveler program after one or more parents or legal guardians have already joined a trusted traveler program and, as such, will be subject to the information collection.

[34] CBP notes, however, that this rule does not change the vehicle fee and each SENTRI participant will continue to receive one vehicle registration for no additional cost when either renewing or applying to the SENTRI program.

[35] A NEXUS applicant may submit a paper application to apply to the NEXUS program. This is a CBSA form, not a CBP form. As such, the paper NEXUS application is sent to CBSA, processed, and input by CBSA. CBP's NEXUS application and application submission are completely electronic.

[36] Data provided from CBP's Borderstat Database by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on February 21, 2023. CBP notes that the average time to complete a SENTRI application is approximately one year. This represents the time between when the application is received and the final decision on enrollment into the SENTRI program. Therefore, applications submitted in a given year are not always comparable to the number of enrollments.

Table 4 shows historical data on the number of minor applicants that enrolled in Global Entry and SENTRI from 2015 to 2022, while Table 5 shows the estimated number of minor Global Entry and SENTRI applications over the period of analysis spanning from 2023 to 2027.[37] [38] CBP based the 2023 through 2027 minor SENTRI enrollment application figures shown in Table 5 on the compound annual growth rate (CAGR) of minor SENTRI enrollment applications between 2015 and 2022, which is equal to six percent, applied to the number of minor SENTRI applications in each prior year. To estimate the 2023 through 2027 minor Global Entry enrollment applications, CBP applied the 2015 to 2022 CAGR of minor Global Entry enrollment applications of 14 percent to the number of minor Global Entry enrollment applications in each prior year.

TABLE 4—HISTORICAL MINOR ENROLLMENT APPLICATIONS FOR SENTRI AND GLOBAL ENTRY, 2015–2022

Year	Total minor SENTRI enrollment applications	Total minor global entry enrollment applications
2015	25,003	59,670
2016	37,102	94,631
2017	34,924	99,232
2018	32,245	101,209
2019	19,707	82,720
2020*	13,573	38,207
2021	33,175	78,639
2022	38,622	152,530
Total	234,351	706,838

*Due to the COVID–19 Pandemic, international travel halted, significantly disrupting the SENTRI and Global Entry programs.

Note: Totals may not sum due to rounding.

TABLE 5—ESTIMATED MINOR SENTRI AND GLOBAL ENTRY ENROLLMENT APPLICATIONS, 2023–2027

Year	Total minor SENTRI enrollment applications	Total minor global entry enrollment applications
2023	40,939	173,884
2024	43,396	198,228
2025	45,999	225,980
2026	48,759	257,617
2027	51,685	293,683
Total	230,778	1,149,392

Note: Totals may not sum due to rounding.

As previously stated, CBP subject matter experts from CBP's Office of Admissibility and Passenger estimate that two percent of minors (or parents/legal guardians acting on their behalf) apply for membership in a trusted traveler program after one or more parents or legal guardians have already joined a trusted traveler program. As such, CBP estimates that only two percent of the projected minor Global Entry and SENTRI applicants shown in Table 5 will be subject to the rule's proposed application information collection requiring the submission of the name and trusted traveler number of an applicant's parent(s) or legal guardian(s). These applicants will incur a two-minute (0.0333-hour) time burden to submit this information, at a time cost of $1.57 for Global Entry applicants and $0.68 for SENTRI applicants.[39] Based on the hourly time values of $47.10 for Global Entry applicants and $20.40 for SENTRI applicants.[40] Using the projected number of minor Global Entry and SENTRI future applicants subject to the new information collection and the estimated time costs to complete the new information collection, CBP estimates that it will cost minors (or parents/legal guardians acting on their behalf) $39,232 in opportunity (or time) costs to complete the information collection over the five-year period of analysis. In the first year (2023), CBP estimates that the new information collection pursuant to this rule will cost minors (or parents/legal guardians acting on their behalf) $6,017. Table 6 shows the number of minor Global Entry and SENTRI applicants required to submit the name and trusted traveler number of one or more parents or legal guardians and their annual cost to complete this information collection.

TABLE 6—TOTAL COST TO COMPLETE THE INFORMATION COLLECTION FOR MINORS, 2023–2027

[Undiscounted 2022 U.S. dollars]

Year	2% of minor SENTRI applicants	2% of minor global entry applicants	Cost to minor SENTRI applicants	Cost to minor global entry applicants	Total cost to minor SENTRI and global entry applicants
2023	819	3,478	$557	$5,460	$6,017
2024	868	3,965	590	6,225	6,815
2025	920	4,520	626	7,096	7,722
2026	975	5,152	663	8,089	8,752
2027	1,034	5,874	703	9,222	9,925

[37] Data from CBP's Borderstat database provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on May 23, 2018, June 22, 2021, and February 21, 2023.

[38] Data displayed in tables throughout this analysis are in calendar years unless otherwise noted.

[39] $20.40 hourly time value for SENTRI applicants × 0.0333-hour time burden to complete new information collection = $0.68 (rounded); $47.10 hourly time value for Global Entry applicants × 0.0333-hour time burden to complete new information collection = $1.57 (rounded).

[40] CBP bases the $20.40 hourly time value for SENTRI applicants on the U.S. Department of Transportation's (DOT) hourly time value of $20.40 for all-purpose, intercity travel by surface modes (except high-speed rail). CBP used this hourly time value for all-purpose, intercity travel by surface modes for SENTRI applicants because SENTRI members use the program to travel to the United States by land. CBP bases the $47.10 hourly time value for Global Entry applicants on the DOT's hourly time value of $47.10 for all-purpose, intercity travel by air and high-speed rail. CBP used this hourly time value for all-purpose, intercity travel by air and high-speed rail for Global Entry applicants because Global Entry members primarily use the program to travel to the United States by air. Source: U.S. Department of Transportation, Office of Transportation Policy. *The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2 (2016 Update).* ''Table 4 (Revision 2—2016 Update): Recommended Hourly Values of Travel Time Savings.'' September 27, 2016. Available at *https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf.* Accessed May 25, 2022.

TABLE 6—TOTAL COST TO COMPLETE THE INFORMATION COLLECTION FOR MINORS, 2023–2027—Continued

[Undiscounted 2022 U.S. dollars]

Year	2% of minor SENTRI applicants	2% of minor global entry applicants	Cost to minor SENTRI applicants	Cost to minor global entry applicants	Total cost to minor SENTRI and global entry applicants
Total 2021–2025	4,616	22,989	3,139	36,093	39,232

Note: Totals may not sum due to rounding.

Total Costs

Table 7 summarizes the costs of this rule for minors to apply to the Global Entry and SENTRI programs after one or more parents or legal guardians have already done so. Altogether, this rule will impose a total discounted cost on minors from 2023 to 2027 of $31,633 in present value and $7,715 on an annualized basis (using a 7 percent discount rate and 2022 U.S. dollars).

TABLE 7—TOTAL MONETIZED PRESENT VALUE AND ANNUALIZED COSTS OF RULE, 2023–2027

[2022 U.S. dollars]

	3% discount rate	7% discount rate
Present Value Cost	$35,670	$31,633
Annualized Cost	7,789	7,715

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

4. Distributional Impacts

a. SENTRI

Pursuant to this final rule, the SENTRI fee will decrease from $122.25 to $120, the entire SENTRI fee will be required to be paid when submitting a SENTRI program application, and minors will be exempt from the SENTRI program fee when one or more parents or legal guardians are either a participant of or concurrently applying for SENTRI. Table 8 shows the historical approved adult SENTRI applicants from 2015 to 2022.[41]

TABLE 8—HISTORICAL APPROVED ADULT SENTRI APPLICANTS, 2015–2022

Year	Total SENTRI enrollment applications approved applicants age 18 or older
2015	55,209
2016	88,163
2017	91,468
2018	84,195
2019	66,916
2020*	58,994
2021	131,811
2022	129,260
Total	706,016

*Due to the COVID–19 Pandemic, international travel halted significantly disrupting the SENTRI program.

Note: Totals may not sum due to rounding.

The SENTRI program fee decrease is estimated to save individuals 18 years of age or older $2.25 over a five-year period (an average of $0.45 per year) when they either apply for SENTRI for the first time or renew their SENTRI membership. Using the above historical data in Table 8 and the 13 percent CAGR of approved adult SENTRI applications between 2015 and 2022, CBP estimates that over the five-year period of analysis from 2023 to 2027, 946,533 adults (189,307 adults per year on average) will either join the SENTRI program or renew their memberships. Based on these projected memberships, CBP estimates that the fee decrease will result in decreased transfer payments from SENTRI applicants to the U.S. Government of approximately $2,129,699 ($425,940 per year on average) over the five-year period of analysis (946,533 estimated SENTRI applications × $2.25 fee decrease = $2,129,699). This is shown in Table 9 below. CBP notes that the SENTRI program is a voluntary program, and each renewing or prospective participant must determine if the benefits of dedicated CBP processing into the United States will equal or exceed the costs of the program. CBP compares these benefits and costs below in section ''V. A. 8. Benefits and Breakeven Analysis.''

[41] Data from CBP's Borderstat database provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on May 23, 2018, June 22, 2021, and February 21, 2023.

TABLE 9—DECREASE IN TRANSFER PAYMENTS FROM ADULT SENTRI APPLICANTS TO CBP AS A RESULT OF THIS RULE, 2023–2027

[Undiscounted 2022 U.S. dollars]

Year	Approved adult SENTRI enrollment applications	Transfers based on old fee of $122.25	Transfers based on new fee of $120	Decrease in transfers from applicants
2023	146,064	$17,856,324	$17,527,680	$328,644
2024	165,052	20,177,607	19,806,240	371,367
2025	186,509	22,800,725	22,381,080	419,645
2026	210,755	25,764,799	25,290,600	474,199
2027	238,153	29,114,204	28,578,360	535,844
Total	946,533	115,713,659	113,583,960	2,129,699

Note: Totals may not sum due to rounding.

In addition to decreasing the fee for the SENTRI program, CBP is requiring that the entire fee be paid when submitting an application. Originally, renewing and prospective SENTRI participants were only required to pay a $25 application fee when submitting a SENTRI program application and an applicant was not responsible for the remaining fee components, including the $14.50 FBI fingerprinting fee and the $82.75 DCL fee, if they did not receive a conditional approval. Under this final rule, a SENTRI applicant who does not receive a conditional approval will see a $95 increase in price ([$120 new SENTRI fee − $25 current SENTRI application fee] = $95). As previously mentioned, this new fee does not include any costs related to DCLs because the technology deployed, and costs associated with the creation of DCLs, are no longer necessary and CBP is eliminating the fee with this rule. CBP estimates that over the last four years, an average of approximately 7,266 individuals per year did not receive a conditional approval when applying for the SENTRI program.[42] Using this annual average over the last four years as a projection of SENTRI applicants who will not receive a conditional approval over the period of analysis, and assuming that these applicants are adults, CBP estimates that SENTRI applicants who do not receive a conditional approval will transfer up to an additional $3,451,350 to the U.S. Government pursuant to the changes implemented by this rule between 2023 and 2027, or $690,270 per year (7,266 SENTRI applicants not receiving a conditional approval * $95 = $690,270 * 5 years = $3,451,350). This is shown in Table 10 below.[43]

TABLE 10—ESTIMATED INCREASE IN TRANSFER PAYMENTS FROM ADULT SENTRI APPLICANTS TO CBP AS A RESULT OF THE RULE, 2023–2027

[Undiscounted 2022 U.S. dollars] *

Year	SENTRI applications without conditional approval	Transfer based on old fee of $25	Transfer based on new fee of $120	Increase in transfers from applicants
2023	7,266	$181,650	$871,920	$690,270
2024	7,266	181,650	871,920	690,270
2025	7,266	181,650	871,920	690,270
2026	7,266	181,650	871,920	690,270
2027	7,266	181,650	871,920	690,270
Total	36,330	908,250	4,359,600	3,451,350

* CBP assumes, for the purposes of this analysis, that the applicants included in this table who do not receive conditional approval for their SENTRI applications are adults.

Note: Totals may not sum due to rounding.

This rule also exempts minors from paying the SENTRI fee when one or more parent or legal guardian is a participant of or concurrently applies for SENTRI. As shown in Table 3, CBP originally placed a cap on the maximum amount a family was required to pay for the application and DCL components of the SENTRI program fee. For the purposes of the SENTRI program prior to this rule, a family was considered to be one or more parents or legal guardians and minors under 18 years of age. Upon the effective date of this rule, CBP will exempt minors from the SENTRI fee as long as one or more parents or legal guardians are a participant of or concurrently applying for SENTRI. CBP's SENTRI database does not track which participants have family participants that also participate

[42] Data from CBP's Borderstat database provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on March 5, 2021, and February 21, 2023.

[43] CBP's original estimate in the NPRM for this rule erroneously included the FBI fingerprinting fee of $14.50 in the amount paid by SENTRI applicants before conditional approval. However, the FBI fingerprinting fee is actually collected after a SENTRI applicant has been or not been conditionally approved. Therefore, CBP adjusted these estimates since the NPRM and now for the final rule these estimates correctly reflect that SENTRI applicants who are not conditionally approved will experience their fee increase from $25 to $120 under the rule as opposed to the original estimate of a fee increase from $39.50 to $120.

in the program. As such, CBP is unable to determine how many families will benefit, or the extent to which they will benefit, from this change. However, assuming that in the absence of this rulemaking, future SENTRI applicants under 18 years of age will largely be exempt from the SENTRI fee because of the existing SENTRI fee exemptions for minors, this rule's fee exemption for minors will have no impact on transfer payments between minor SENTRI applicants and CBP during the period of analysis. CBP presents two examples below in Table 11 to illustrate the possible savings that a family may receive under the final rule.

TABLE 11—ILLUSTRATIVE EXAMPLES OF THE SENTRI PROGRAM SAVINGS

Example	Fee structure	Cost	Change from original fee structure
A single parent or legal guardian and one 14-year-old minor child apply for the SENTRI program.	Original	$244.50 ([2 individuals * $25 application fee = $50] + [2 individuals * $82.75 DCL fee = $165.50] + [2 individuals * $14.50 FBI fingerprinting fee = $29] = $244.50).	No change.
	New	$120 ([1 adult * $120 SENTRI program fee] + [1 minor under 18 years of age * $0 SENTRI program fee] = $120).	Savings of $124.50 ($244.50 − $120 = $124.50).
A family of four comprising of two parents or legal guardians, and two 14-year-old minor children apply for the SENTRI program.	Original	$273.50 ([4 individuals * $25 application fee = $50 family cap] + [4 individuals * $82.75 DCL fee = $165.50 family cap] + [4 individuals * $14.50 FBI fingerprinting fee = $58] = $273.50).	No change.
	New	$240 ([2 adult * $120 SENTRI program fee] + [2 minors under 18 years of age * $0 SENTRI program fee] = $240).	Savings of $28 ($268 − $240 = $28).

b. Global Entry

Under the final rule, the Global Entry program fee will increase from $100 to $120 and minors will be exempt from the Global Entry program fee when one or more parents or legal guardians are either a participant of or are concurrently applying for Global Entry. CBP acknowledges that prior to the fee change, some private credit card companies reimbursed the full amount of the $100 application fee to Global Entry applicants. Unfortunately, CBP does not have data available on the number of Global Entry applicants receiving such reimbursement. Therefore, CBP is unable to project the number of applicants who may or may not receive fee reimbursements in the future as a result of the increased fee from $100 to $120. In any case, regardless of whether the applicant is reimbursed by his or her credit card company, CBP still receives the payment of the fee. Therefore, CBP does not account for instances where a Global Entry applicant is reimbursed the fee by a private credit card company, when estimating the costs and benefits of this rule. Table 12 below details the historical approved adult Global Entry applications from 2015 to 2022.[44]

TABLE 12—HISTORICAL APPROVED ADULT GLOBAL ENTRY APPLICATIONS, 2015–2022

Year	Total approved adult GE enrollment applications
2015	770,875
2016	1,154,854
2017	1,397,685
2018	1,455,383
2019	1,607,717
2020*	802,598
2021	1,586,181
2022	2,287,552
Total	11,052,845

*Due to the COVID–19 Pandemic, international travel halted, significantly disrupting the Global Entry program.

The Global Entry program fee increase will cost individuals 18 years of age or older an additional $20 over a five-year period (an additional $4 per year) when they either apply for the Global Entry trusted traveler program for the first time or renew their Global Entry membership. Considering the above historical data in Table 12 and the 17 percent CAGR of approved adult Global Entry applications between 2015 and 2022, CBP estimates that 18,773,592 adults (3,754,718 adults per year) will either renew or apply to join the Global Entry program over the period of analysis. Using this figure, CBP estimates that the fee increase will result in an increased transfer payment from Global Entry applicants to the U.S. Government (namely, CBP) of $375,471,840 from 2023 to 2027 (18,773,592 estimated Global Entry applicants * $20 fee increase = $375,471,840). In 2023, the fee increase will result in an increased transfer payment of $53,528,720. This is shown in Table 13 below. CBP notes that the Global Entry program is a voluntary program, and each renewing or prospective participant must determine if the benefits of dedicated CBP processing into the United States will equal or exceed the costs of the program. CBP compares these benefits and costs below in section ''V. A. 8. Benefits and Breakeven Analysis.''

TABLE 13—INCREASE IN TRANSFER PAYMENTS FROM ADULT GLOBAL ENTRY APPLICANTS TO CBP AS A RESULT OF THE RULE, 2023–2027

[Undiscounted 2022 U.S. dollars]

Year	Approved adult global entry applications	Transfer based on old fee of $100	Transfer based on new fee of $120	Increase in transfers from applicants
2023	2,676,436	$267,643,600	$321,172,320	$53,528,720

[44] Data from CBP's Borderstat database provided by subject matter experts from CBP's Office of Admissibility and Passenger Programs, Trusted Traveler Programs Division, Office of Field Operations on May 23, 2018, June 22, 2021, and February 21, 2023.

TABLE 13—INCREASE IN TRANSFER PAYMENTS FROM ADULT GLOBAL ENTRY APPLICANTS TO CBP AS A RESULT OF THE RULE, 2023–2027—Continued

[Undiscounted 2022 U.S. dollars]

Year	Approved adult global entry applications	Transfer based on old fee of $100	Transfer based on new fee of $120	Increase in transfers from applicants
2024	3,131,430	313,143,000	375,771,600	62,628,600
2025	3,663,773	366,377,300	439,652,760	73,275,460
2026	4,286,614	428,661,400	514,393,680	85,732,280
2027	5,015,339	501,533,900	601,840,680	100,306,780
Total	18,773,592	1,877,359,200	2,252,831,040	375,471,840

Note: Totals may not sum due to rounding.

This rule also exempts minors from the Global Entry fee when one or more parents or legal guardians is a participant of or concurrently applies for Global Entry. Originally, all Global Entry applicants were required to pay the full $100 fee. CBP's Global Entry database does not track which participants have family participants that also participate in the program. As such, CBP is unable to determine how many families will benefit, or the extent to which they will benefit, from the change. However, assuming that all minor Global Entry applicants will be exempt from the applicant fee based on their one or more parents' or legal guardians' concurrent application or membership, this fee change will affect up to 1,149,392 minor Global Entry applicants (see Table 5) and result in a maximum of $114,939,200 in fee savings to these applicants (and their respective families). CBP presents the example below in Table 14 to illustrate the possible savings that a family may receive under the final rule. Table 15 shows the potential decrease in transfer payments from minor Global Entry applicants to CBP as a result of this rule under the assumption that all minor Global Entry applicants will be exempt from the applicant fee with this rule based on their one or more parents' or legal guardians' concurrent Global Entry application or membership.

TABLE 14—ILLUSTRATIVE EXAMPLE OF THE GLOBAL ENTRY PROGRAM SAVINGS

Example	Fee structure	Cost	Change from original fee structure
A single parent or legal guardian and one 14-year-old minor child apply for the Global Entry program.	Original	$200 ([1 adult * $100 current Global Entry program fee] + [1 minor under 18 years of age * $100 current Global Entry program fee] = $200).	No change.
	New	$120 ([1 adult * $120 Global Entry program fee] + [1 minor under 18 years of age * $0 Global Entry program fee] = $120).	Savings of $80 ($200 − $120 = $80).
A family of four comprising two parents or legal guardians and two minor children under 18 years of age apply for the Global Entry program.	Original	$400 ([2 adults * $100 current Global Entry program fee] + [2 minors under 18 years of age * $100 current Global Entry program fee] = $400).	No change.
	New	$240 ([2 adults * $120 Global Entry program fee] + [2 minors under 18 years of age * $0 Global Entry program fee] = $240).	Savings of $160 ($400 − $240 = $160).

TABLE 15—POTENTIAL DECREASE IN TRANSFER PAYMENTS FROM MINOR GLOBAL ENTRY APPLICANTS TO CBP AS A RESULT OF THE RULE, 2023–2027

[Undiscounted 2022 U.S. dollars]

Year	Minor global entry applicants	Transfer based on old fee of $100	Transfer based on new fee of $0	Potential decrease in transfers from applicants
2023	173,884	$17,388,400	$0	$17,388,400
2024	198,228	19,822,800	0	19,822,800
2025	225,980	22,598,000	0	22,598,000
2026	257,617	25,761,700	0	25,761,700
2027	293,683	29,368,300	0	29,368,300
Total	1,149,392	114,939,200	0	114,939,200

Note: Totals may not sum due to rounding.

5. Total Monetized Decrease in Transfer Payments to U.S. Government

Table 16 summarizes the total monetized decrease in transfer payments from the Global Entry and SENTRI applicants to CBP as a result of this final rule (see Table 9 and Table 15). Altogether, this rule could result in a total discounted decrease in monetized transfer payments from Global Entry and SENTRI applicants to the U.S. Government from 2023 to 2027 ranging from $94.3 million to $106.4 million in present value and $23.0 million to $23.2 million on an annualized basis, depending on the discount rate used.

TABLE 16—TOTAL POTENTIAL MONETIZED PRESENT VALUE AND ANNUALIZED DECREASE IN TRANSFER PAYMENT FROM APPLICANTS TO CBP AS A RESULT OF THE RULE, 2023–2027

[2022 U.S. dollars]

	3% Discount rate	7% Discount rate
Present Value Decrease in Transfer Payment	$106,406,193	$94,322,091
Annualized Decrease in Transfer Payment	23,234,279	23,004,280

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

6. Total Monetized Increase in Transfer Payments to U.S. Government

Table 17 summarizes the total monetized increase in transfer payments from the Global Entry and SENTRI applicants to CBP as a result of this final rule. Altogether, this rule could result in a total discounted increase in monetized transfer payments from Global Entry and SENTRI applicants to the U.S. Government from 2023 to 2027 (see Table 10 and Table 13) ranging from $304.3 million to $343.9 million in present value and $74.2 million to $75.1 million on an annualized basis, depending on the discount rate used.

TABLE 17—TOTAL POTENTIAL MONETIZED PRESENT VALUE AND ANNUALIZED INCREASE IN TRANSFER PAYMENTS FROM APPLICANTS TO CBP AS A RESULT OF THE RULE, 2023–2027

[2022 U.S. dollars]

	3% Discount rate	7% Discount rate
Present Value Increase in Transfer Payments	$343,919,284	$304,296,025
Annualized Increase in Transfer Payments	75,096,348	74,214,969

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

7. Net Transfer Payments to U.S. Government

Table 18 illustrates the potential monetized net transfer payments of this rule from Global Entry and SENTRI applicants to the U.S. Government (namely, CBP). As shown, the total monetized present value net transfer payment of this rule from applicants to the U.S. Government over the five-year period of analysis from 2023 to 2027 could range from approximately $210.0 million to $237.5 million. The annualized net transfer payment could measure between $51.2 million and $51.9 million over the period of analysis.

TABLE 18—TOTAL POTENTIAL MONETIZED PRESENT VALUE AND ANNUALIZED NET TRANSFER PAYMENTS OF RULE, 2023–2027

[2022 U.S. dollars]

	3% Discount rate		7% Discount rate	
	Present value	Annualized	Present value	Annualized
Total Decrease in Transfer Payments from Applicants to CBP	$106,406,193	$23,234,279	$94,322,091	$23,004,280
Total Increase in Transfer Payments from Applicants to CBP	343,919,284	75,096,348	304,296,025	74,214,969
Total Net Transfer Payments from Applicants to CBP	237,513,091	51,862,069	209,973,935	51,210,689

Note: The estimates in this table are contingent upon CBP's projections as well as the discount rates applied.

8. Benefits and Breakeven Analysis

CBP is exempting minors from paying the trusted traveler program fee when one or more parents or legal guardians is a participant of or concurrently applying for membership in the same program to which the minor is applying. Originally, minors applying for the Global Entry program were required to pay the full $100 program fee. Minors applying for the SENTRI program, however, could be exempt from certain SENTRI fee components (see Table 3). In addition, to lessen the financial burden for families applying to the SENTRI trusted traveler program, CBP originally placed a cap on the maximum amount that a family was required to pay for the application and DCL components of the SENTRI program fee. The maximum caps were $50 and $165.50, respectively. For the purposes of the SENTRI program prior to this rule, CBP considered a family to be one or more parents or legal guardians, and minors under 18 years of age.

The fee exemption for certain minors pursuant to this rule is a reduction in a transfer payment. As such, this change is not considered a benefit of this rule to society. CBP does recognize, however, that the fee changes may have a positive distributional impact on

individuals and families applying or renewing their memberships in either the Global Entry or SENTRI trusted traveler program. In order to inform stakeholders of all potential effects of the final rule, CBP has analyzed the distributional effects of the final rule in section ''V.A.4. Distributional Impacts.''

With this rule, CBP is codifying Global Entry benefits that have previously been implemented. These benefits allow the use of Global Entry in U.S. territories and preclearance facilities. These changes, however, will not confer additional benefits to trusted traveler program participants because they are currently operational. As such, these changes are not analyzed in this analysis.

Lastly, CBP is harmonizing the membership fee of $120 for the Global Entry, SENTRI, and NEXUS trusted traveler programs.[45] Although the trusted traveler programs all offer nearly reciprocal benefits with each other, the original Global Entry, SENTRI, and NEXUS fees were $100, $122.25, and $50, respectively. In addition to leading to potential confusion and charging of different prices for nearly the same product for prospective and renewing trusted traveler program participants, these different fees are no longer sufficient to recover CBP's costs to administer the programs. While not easily quantifiable, the fee harmonization will allow individuals to choose the trusted traveler program that meets their travel needs best rather than choosing a program based on the cost. Additionally, the harmonized fee will ensure that a reasonable portion of the CBP costs is recovered and that costs are more equitably distributed among all the trusted traveler program participants now that each program has nearly reciprocal benefits with the other programs.

The U.S. GAO conducted a review of the Global Entry, SENTRI, and NEXUS trusted traveler programs.[46] During this review, GAO observed 14 land border crossings that utilized SENTRI lanes. Of these 14 crossings, GAO observed 11 crossings where vehicles experienced a time savings of at least 15 minutes (0.25 hours) when crossing the U.S.–Mexico border compared to vehicles in traditional lanes. Considering these observed time savings and the assumed $20.40 hourly time value for SENTRI applicants, CBP estimates that a SENTRI participant saves approximately $5.10 per crossing ($20.40 estimated hourly time value * 0.25 hours of time savings = $5.10). Based on these time cost savings per crossing, CBP estimates that a SENTRI participant 18 years of age or older must make five crossings per year for the benefits of the SENTRI program to equal the cost of membership over the five-year period of analysis ($120 SENTRI fee ÷ 5 years of membership = $24 membership cost per year; $24 membership cost per year ÷ $5.10 estimated savings per crossing = 5 crossings per year (rounded up)).[47] This compares to the five crossings currently required under the baseline ($122.25 current SENTRI fee ÷ 5 years of membership = $24.45 membership cost per year; $24.45 membership cost per year ÷ $5.10 estimated savings per arrival = 5 crossings per year (rounded up)).

The GAO found that the average time savings for travelers using Global Entry kiosks is 10 minutes (0.1667 hours) to 27 minutes (0.45 hours). As referenced above, using DOT's guidance, CBP estimates a Global Entry applicant's hourly time value to be $47.10 per hour. Using this estimate and the minimum Global Entry time savings identified by GAO, CBP estimates that Global Entry participants save at least $7.85 per arrival ($47.10 estimated hourly time value * 0.1667 hours of minimum time savings = $7.85). Based on these minimum time cost savings per arrival, CBP estimates that a Global Entry participant 18 years of age or older must make four arrivals per year for the benefits of the Global Entry program to equal the cost of membership ($120 Global Entry fee ÷ 5 years of membership = $24 membership cost per year; $24 membership cost per year ÷ $7.85 estimated savings per arrival = 4 arrivals per year (rounded up)).[48] This compares to the three arrivals currently required under the baseline ($100 current Global Entry fee ÷ 5 years of membership = $20 membership cost per year; $20 membership cost per year ÷ $7.85 estimated savings per arrival = 3 arrivals per year (rounded up)).

B. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA). A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule will directly regulate individuals who are primarily not considered small entities under the Regulatory Flexibility Act, as amended by SBREFA. However, a small number of individuals may obtain the rule's trusted traveler benefit as a sole proprietor. When choosing to re-enroll in the Global Entry or SENTRI programs once this rule is in effect, these sole proprietors must determine if the benefit of receiving dedicated CBP processing still meets or exceeds the cost of joining one of these programs. If an individual voluntarily chooses to join the Global Entry or SENTRI program as a sole proprietor under this rule and he/she is approved for membership, he/she will incur a maximum cost of $20 per year (based on the new Global Entry enrollment fee change from $100 to $120 for adult applicants).[49] CBP does not believe that this cost will result in a significant economic impact. For these reasons, CBP certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to

[45] As discussed above, CBP will be issuing a separate **Federal Register** notice to change the NEXUS fee to $120.

[46] Trusted Travelers: Programs Provide Benefits, but Enrollment Processes Could Be Strengthened; available at: *http://www.gao.gov/products/GAO-14-483*.

[47] This document does not change the current application and the interview process. Accordingly, these estimates do not account for the opportunity cost associated with applying and interviewing for the SENTRI trusted traveler program.

[48] This document does not change the existing application and interview process. Accordingly, these estimates do not account for the opportunity cost associated with applying and interviewing for the Global Entry trusted traveler program.

[49] Under the final rule, a SENTRI applicant who does not receive a conditional approval will see an $80.50 increase in price compared to the baseline.

warrant the preparation of a federalism summary impact statement.

E. Paperwork Reduction Act

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 collections of information for the Global Entry and SENTRI applications are approved by OMB in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0121.[50] The changes contained in these regulations under 8 CFR part 235 revise the collection of information by requiring electronic submission of the SENTRI application and eliminating paper Form 823S. Additionally, this regulation will require a minor applying for membership in either the Global Entry or SENTRI trusted traveler program whose one or more parents or legal guardians are already a participant of the same program to submit his or her parents' or legal guardians' names and trusted traveler numbers.

OMB-approved collection 1651–0121 will be amended to reflect Global Entry and SENTRI information collections for minor applicants. CBP estimates that this rule will result in an additional two-minute time burden on minors applying for membership in either the Global Entry or SENTRI trusted traveler program whose one or more parents or legal guardians is already a participant of the same program to submit his or her parents' or legal guardians' names and trusted traveler numbers. CBP estimates that this will affect 3,051 minor Global Entry applicants and 772 minor SENTRI applicants annually and result in an additional 127 burden hours.

This new information collection requirement will result in the following revision of additional burden hours to the SENTRI information collection:

Estimated number of respondents annually: 772.

Estimated average annual burden per respondent: 0.033 hours.

Estimated total annual reporting burden: 26 hours.

The addition of these burden hours will revise the total burden associated with the SENTRI application to 111,947.

These new requirements result in the following revision of additional burden hours for the Global Entry information collection:

Estimated number of respondents annually: 3,051.

Estimated average annual burden per respondent: 0.033 hours.

Estimated total annual reporting burden: 102 hours.

The addition of these burden hours will revise the total burden associated with the Global Entry application to 1,626,823.

This rule changes the SENTRI fee from $122.25 to $120 for adults and certain minors and reduces the fee for minors from the fee currently applicable under the family option plan to zero when one or more parents or legal guardians is a participant in or concurrently applying for SENTRI. CBP is also requiring that the entire fee be paid when submitting an application. Originally, renewing, and prospective SENTRI participants were only required to pay a $25 application fee when submitting a SENTRI program application and an applicant was not responsible for the remaining fee components, including the $14.50 FBI fingerprinting fee and the $82.75 DCL fee, if they did not receive a conditional approval. Under this final rule, a SENTRI applicant who does not receive a conditional approval will see an $95 increase in price ([$120 new SENTRI fee − $25 old SENTRI application fee] = $95). The total annual estimated cost associated with the SENTRI fee that is currently approved by OMB under control number 1651–0121 is approximately $15,600,000. Pursuant to this rule, the total annual estimated costs associated with the SENTRI fee could be $15,511,200, which reflects a decrease of $88,800.[51]

This final rule also changes the Global Entry fee from $100 to $120 for adults and certain minors (8 CFR 235.12 and 8 CFR 103.7) and reduces the fee for certain minors from $100 to zero when one or more parents or legal guardians is a participant of or concurrently applying for Global Entry (8 CFR 235.12 and 8 CFR 103.7). The total annual estimated cost associated with Global Entry that is currently approved by OMB under control number 1651–0121 is approximately $252,700,000. Pursuant to this rule, the total annual estimated costs associated with the Global Entry fee could be $292,809,840, which reflects an increase of $40,109,840.[52]

F. Privacy

CBP generally requires travelers to apply for membership in a CBP trusted traveler program, such as Global Entry and NEXUS, through the TTP System website (*https://ttp.cbp.dhs.gov/*). CBP uses the cloud-based Trusted Traveler Program (TTP) Systems for online application to CBP programs; and uses the General Services Administration (GSA) Login.gov portal for identity authentication. CBP maintains trusted traveler information in the Global Enrollment System (GES), Trusted Traveler Program (TTP) Systems, and DHS Automated Biometric Identification System (IDENT). The personally identifiable information provided by the applicants, including the fingerprint biometrics taken at the time of the personal interview, may be shared with other government and law enforcement agencies as well as foreign governments in accordance with applicable laws and regulations, including as described in the Privacy Act system of records notice (SORN) for Trusted and Registered Traveler programs (Department of Homeland Security/U.S. Customs and Border Protection—002 Trusted and Registered Traveler System of Records, 85 FR 14214 (March 11, 2020), available at *https://www.federalregister.gov/documents/2020/03/11/2020-04982/privacy-act-of-1974-system-of-records* and *http://www.dhs.gov/system-records-notices-sorns.* (This SORN previously referred to GES instead of Trusted and Registered Traveler systems and still covers what is elsewhere referred to as GES.) CBP provides additional information about GES and its CBP trusted traveler programs in its Privacy Impact Assessment (PIA) for GES, DHS/CBP/PIA—002 Global Enrollment System, and subsequent updates, available at *https://www.dhs.gov/publication/global-enrollment-system-ges.* Applicants' biometric information (fingerprints, photographs) submitted as part of a TTP application are stored in the DHS biometric repository, DHS Automated Biometric Identification System (IDENT). DHS has provided information about IDENT in the Privacy Impact Assessment for the Automated

[50] The changes to the NEXUS program are exempt from the PRA requirements pursuant to 8 U.S.C. 1753(c).

[51] As stated in footnote 43, CBP's original estimate in the NPRM for this rule erroneously included the FBI fingerprinting fee of $14.50 in the amount paid by SENTRI applicants before conditional approval. However, the FBI fingerprinting fee is actually collected after a SENTRI applicant has been or not been conditionally approved. Therefore, CBP adjusted these estimates since the NPRM and now for the final rule these estimates correctly reflect that SENTRI applicants who are not conditionally approved will experience their fee increase from $25 to $120 under the rule as opposed to the original estimate of a fee increase from $39.50 to $120. CBP's trusted traveler databases do not track which participants have family members that also participate in the program and will be exempt from the fee due to family membership fee caps. As such, this may not reflect the actual costs of the SENTRI fee to respondents.

[52] CBP's trusted traveler databases do not track which participants have family members that also participate in the program and will be exempt from the fee due to family membership fee exemptions. As such, this may not reflect the actual costs of the Global Entry fee to respondents.

Biometric Identification System (IDENT), DHS/NPPD/PIA—002 (Dec. 7, 2012), and Appendices, available at *https://www.dhs.gov/publication/dhsnppdpia-002-automated-biometric-identification-system.*

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, CBP is amending 8 CFR parts 103 and 235 as set forth below.

PART 103—IMMIGRATION BENEFITS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b, 1372; 31 U.S.C. 9701; 48 U.S.C. 1806; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2, Pub. L. 112–54, 125 Stat 550; 31 CFR part 223.

■ 2. Amend § 103.7 as follows:
■ a. Remove and reserve paragraph (d)(1);
■ b. Add paragraph (d)(7)(vii);
■ c. Revise paragraph (d)(13);
■ d. Add paragraph (d)(16).

The additions and revision read as follows:

§ 103.7 Fees.

* * * * *

(d) * * *

(7) * * *

(vii) For the SENTRI program, see paragraph (d)(16) of this section.

* * * * *

(13) *Global Entry.* For filing an application for Global Entry—$120. Minors under the age of 18 who apply to the Global Entry program concurrently with a parent or legal guardian, or whose parent or legal guardian is already a participant of Global Entry, are exempt from payment of the application fee.

* * * * *

(16) *SENTRI program.* For filing an application for the SENTRI program—$120. Minors under the age of 18 who apply to the SENTRI program concurrently with a parent or legal guardian, or whose parent or legal guardian is already a participant of SENTRI, are exempt from payment of the application fee. Registration of one vehicle for use in the SENTRI lanes is included in the $120 application fee and may be done during the initial application or renewal process If an applicant or participant wishes to register more than one vehicle for use in the SENTRI lanes, or the participant registers any vehicle after the initial application or renewal process, that applicant or participant will be assessed an additional fee of $42 for each vehicle.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 3. The authority citation for part 235 is revised to read as follows:

Authority: 6 U.S.C. 218 and note; 8 U.S.C. 1101 and note, 1103, 1158, 1182, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1185 note, 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; 48 U.S.C 1806 and note; Pub. L. 115–218.

■ 4. In § 235.7, revise the section heading and redesignate paragraphs (a)(1)(ii) through (iv) as paragraphs (a)(1)(iii) through (v) and add new paragraph (a)(1)(ii).

The revision and addition read as follows:

§ 235.7 Automated inspection services (PORTPASS).

(a) * * *

(1) * * *

(i) * * *

(ii) *SENTRI program.* Although the SENTRI program is a PORTPASS program, all the parameters of the SENTRI program, including the eligibility requirements, application procedures, redress procedures, registration of vehicles, use of dedicated commuter lanes, and fee requirements are specified in § 235.14. For purposes of the SENTRI program, § 235.14 supersedes the provisions of this section.

* * * * *

■ 5. Amend § 235.12 as follows:
■ a. Revise paragraphs (a), (c), (d)(2) and (3), (e)(1), (g), (h), the paragraph (j) heading, and paragraphs (j)(2) introductory text, (j)(4), and (k); and
■ b. Remove paragraph (l).

The revisions read as follows:

§ 235.12 Global Entry program.

(a) *Program description.* The Global Entry program is a voluntary international trusted traveler program consisting of an integrated passenger processing system that facilitates the movement of pre-approved, low-risk, air travelers by providing dedicated CBP processing at specified airports. In order to participate, a person must meet the eligibility requirements specified in this section, apply in advance, undergo vetting by CBP, and be accepted into the program. The Global Entry program allows participants dedicated CBP processing at selected airports identified by CBP at *www.cbp.gov.* Participants in the Global Entry program may also take advantage of certain benefits of the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) and NEXUS programs. Please see *http://www.cbp.gov* for additional information. Participants will be processed through the use of CBP-approved technology that will include the use of biometrics to validate identity and to perform enforcement queries.

* * * * *

(c) *Participating airports.* The Global Entry program allows participants dedicated CBP processing at the locations identified at *www.cbp.gov.* Expansions of the Global Entry program to new airports will be announced by publication in the **Federal Register** and at *www.cbp.gov.*

(d) * * *

(2) Except for certain minors, all applicants must pay the non-refundable fee in the amount set forth at 8 CFR 103.7(d)(13) for ''Global Entry.'' Minors under the age of 18 who apply to the Global Entry program concurrently with a parent or legal guardian, or whose parent or legal guardian is already a participant of Global Entry, are exempt from payment of the applicable fee. The fee is to be paid to CBP at the time of application through the online TTP System, which can be found through *www.cbp.gov,* or other CBP-approved process.

(3) Every applicant accepted into Global Entry is accepted for a period of 5 years provided participation is not terminated by CBP prior to the end of the 5-year period. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

* * * * *

(e) * * *

(1) After submitting the application, conditionally approved applicants will be notified by CBP that they need to undergo a personal interview.

* * * * *

(g) *Arrival procedures.* In order to utilize the Global Entry program, each participant must:

(1) Proceed to Global Entry Processing and follow all CBP instructions; and

(2) Proceed to the nearest open primary inspection station if CBP determines it is appropriate.

(h) *Application for entry, examination, and inspection.* Each successful use of Global Entry constitutes a separate and completed inspection and application for entry by the participant on the date that Global Entry is used. Global Entry participants may be subject to further CBP examination and inspection at any time during the arrival process.

* * * * *

(j) *Denial and removal.* * * *

(2) A Global Entry participant may be removed from the program for any of the following reasons:

* * * * *

(4) An applicant or participant denied or removed will not receive a refund, in whole or in part, of his or her application processing fee.

(k) *Redress.* An individual whose application is denied or who is removed from the program has two possible methods of redress. These processes do not create or confer any legal right, privilege or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *DHS Traveler Redress Inquiry Program (DHS TRIP).* The applicant/participant may choose to initiate the redress process through DHS Traveler Redress Program (DHS TRIP). An applicant/participant seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP website, or by contacting DHS TRIP by mail at the address on the DHS TRIP website.

(2) *Ombudsman.* Applicants (including applicants who were not scheduled for an interview at an enrollment center) and participants may contest a denial or removal by submitting a reconsideration request to the CBP Trusted Traveler Ombudsman through the online TTP System or other CBP-approved process.

■ 6. Add § 235.14 to read as follows:

§ 235.14 SENTRI program.

(a) *Program description.* The Secure Electronic Network for Travelers Rapid Inspection (SENTRI) trusted traveler program is a voluntary program that allows certain pre-approved, low-risk travelers dedicated processing at specified land border ports along the U.S.-Mexico border. In order to participate, a person must meet the eligibility requirements specified in this section, apply in advance, undergo vetting by CBP, and be accepted into the program. A SENTRI participant will be issued a Radio Frequency Identification (RFID) card or other CBP-approved document that grants the individual access to specific, dedicated primary lanes (SENTRI lanes). These lanes are identified at *http://www.cbp.gov.* A SENTRI participant may utilize a vehicle in the dedicated SENTRI lanes into the United States from Mexico only if the vehicle is approved by CBP for such purpose. Participants in the SENTRI program may also be able to take advantage of certain benefits of the Global Entry and NEXUS programs. Please see *http://www.cbp.gov* for additional information.

(b) *Program eligibility criteria*—(1) *Eligible individuals.* Any individual may apply to participate in the SENTRI program absent any of the disqualifying factors described in paragraph (b)(2) of this section. Persons under the age of 18 must have the consent of a parent or legal guardian to participate in the SENTRI program and provide proof of such consent in accordance with CBP instructions.

(2) *Disqualifying factors.* An individual is ineligible to participate in the SENTRI program if CBP, at its sole discretion, determines that the individual presents a potential risk for terrorism, criminality (such as smuggling), or CBP is unable to establish that the applicant can be considered low-risk. This risk determination will be based in part upon an applicant's ability to demonstrate past compliance with laws, regulations, and policies. Reasons why an applicant may not qualify for participation include:

(i) The applicant provides false or incomplete information on his or her application;

(ii) The applicant has been arrested for, or convicted of, any criminal offense or has pending criminal charges or outstanding warrants in any country;

(iii) The applicant has been found in violation of any customs, immigration, or agriculture regulations, procedures, or laws in any country;

(iv) The applicant is the subject of an investigation by any Federal, State or local law enforcement agency in any country;

(v) The applicant is inadmissible to the United States under applicable immigration laws or has, at any time, been granted a waiver of inadmissibility or parole;

(vi) The applicant is known or suspected of being or having been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism; or

(vii) The applicant cannot satisfy CBP of his or her low-risk status or meet other program requirements.

(c) *Program application.* (1) Each applicant must complete and submit the program application electronically through an approved application process as determined by CBP. The application and application instructions for the SENTRI program are available at *www.cbp.gov.*

(2) During the application process, an applicant must provide information on any vehicle that will utilize the SENTRI lanes. The vehicle must be approved by CBP to utilize the dedicated SENTRI lanes. Registration of one vehicle for use in the SENTRI lanes is included in the application fee provided the vehicle is registered at the time of initial application or at renewal. If any vehicle is registered after the initial application or renewal is filed, or if an applicant or participant wishes to register more than one vehicle for use in the SENTRI lanes, they will be assessed an additional fee in the amount set forth at 8 CFR 103.7(d)(16). The fee is to be paid to CBP at the time the vehicle is registered through the online TTP System, which can be found at *www.cbp.gov,* or other CBP-approved process.

(3) Except for certain minors, all other applicants must pay the non-refundable fee in the amount set forth at 8 CFR 103.7(d)(16) for the ''SENTRI program''. Minors under the age of 18 who apply concurrently with a parent or legal guardian, or whose parent or legal guardian is already a participant of SENTRI, are exempt from payment of the applicable fee. The fee is to be paid to CBP at the time of application through the TTP System or other CBP-approved process.

(4) Every applicant accepted into the SENTRI program is accepted for a period of 5 years provided participation is not terminated by CBP prior to the end of the 5-year period. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

(5) Each applicant may check the status of his or her application through his or her account with the application system in use for the SENTRI program.

(d) *Interview and enrollment.* (1) After submitting the application, conditionally approved applicants will be notified by CBP to schedule a personal interview.

(2) Each applicant must provide CBP the original of the identification document specified in his or her application. During the interview, CBP will collect biometric information from the applicant (*e.g.,* a set of fingerprints and/or digital photograph) to conduct

background checks or as otherwise required for participation in the program.

(3) CBP may provide for alternative enrollment procedures, as necessary, to facilitate enrollment and ensure an applicant's eligibility for the program.

(e) *SENTRI lanes.* A SENTRI participant is issued a Radio Frequency Identification (RFID) card or other CBP-approved document. This RFID card or other CBP-approved document will grant the participant access to specific, dedicated primary lanes into the United States from Mexico (SENTRI lanes). These lanes are identified at *http://www.cbp.gov.* A SENTRI participant may utilize a vehicle in the dedicated SENTRI lanes into the United States from Mexico only if the vehicle is approved by CBP for such purpose.

(f) *Denial and removal.* (1) If an applicant is denied participation in the SENTRI program, or an applicant's or participant's vehicle is not approved for use in the SENTRI lanes, CBP will notify the applicant of the denial, and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A SENTRI participant may be removed from the program for any of the following reasons:

(i) CBP, at its sole discretion, determines that the participant has engaged in any disqualifying activities as outlined in paragraph (b)(2) of this section;

(ii) CBP, at its sole discretion, determines that the participant provided false information in the application and/or during the application process;

(iii) CBP, at its sole discretion, determines that the participant failed to follow the terms, conditions and requirements of the program;

(iv) CBP determines that the participant has been arrested or convicted of a crime or otherwise determines, at its sole discretion, that the participant no longer meets the program eligibility criteria; or

(v) CBP, at its sole discretion, determines that such action is otherwise necessary.

(3) CBP will notify the participant of their removal from the program in writing. Such removal is effective immediately.

(4) An applicant or participant denied or removed will not receive a refund, in whole or in part, of his or her application fee.

(g) *Redress.* An individual whose application is denied or who is removed from the program or whose vehicle is not approved for use in the program has two possible methods for redress. These processes do not create or confer any legal right, privilege, or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *DHS Traveler Redress Inquiry Program (DHS TRIP).* The applicant/participant may choose to initiate the redress process through DHS TRIP. An applicant/participant seeking redress may obtain the necessary forms and information to initiate the process on the DHS TRIP website, or by contacting DHS TRIP by mail at the address on this website.

(2) *Ombudsman.* Applicants and participants may contest a denial or removal from the program by submitting a reconsideration request to the CBP Trusted Traveler Ombudsman through the TTP System or other CBP-approved process.

Alejandro N. Mayorkas,

Secretary of Homeland Security.

[FR Doc. 2024–06851 Filed 4–1–24; 8:45 am]

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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1003

[EOIR Docket No. EOIR 20–0010; A.G. Order No. 5912–2024]

RIN 1125–AB00

Expanding the Size of the Board of Immigration Appeals

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: On April 1, 2020, the Department of Justice (''the Department'' or ''DOJ'') published an interim final rule (''IFR'') with request for comments that amended its regulations relating to the organization of the Board of Immigration Appeals (''Board'') by adding two Board member positions, thereby expanding the Board to 23 members. This final rule responds to comments received and adds five additional Board member positions, thereby expanding the Board to 28 members. The final rule also clarifies that temporary Board members serve renewable terms of up to six months and that temporary Board members are appointed by the Attorney General.

DATES: This rule is effective on April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Raechel Horowitz, Chief, Immigration Law Division, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Falls Church, VA 22041, telephone (703) 305–0289.

SUPPLEMENTARY INFORMATION:

I. Summary of This Rulemaking

A. Background and Purpose of the Interim Final Rule (''IFR'')

The Executive Office for Immigration Review (''EOIR'') administers the immigration court system of the United States. In most instances, a case begins before an immigration judge after the Department of Homeland Security (''DHS'') files a charging document with the immigration court. *See* 8 CFR 1003.14(a). A charging document generally charges a foreign-born individual with being subject to removal from the United States under the Immigration and Nationality Act (''INA'' or ''the Act''). Subsequently, the immigration judge determines whether the individual is deportable or inadmissible and thereby subject to removal, and, if they are deportable or inadmissible, whether they merit either immigration relief or protection from removal. EOIR's Office of the Chief Immigration Judge administers these adjudications through the nationwide immigration court system.

Immigration judges' decisions are generally subject to review by the Board, which is EOIR's appellate body and the highest administrative tribunal for interpreting and applying U.S. immigration law. *See* 8 CFR 1003.1(b). Board decisions are subject to review by the Attorney General. *See* 8 CFR 1003.1(g), (h). Decisions by both the Board and the Attorney General may be subject to further judicial review. *See* INA 242, 8 U.S.C. 1252. The Board's adjudicators are known as Board members or appellate immigration judges. The number of Board members is set by regulation at 8 CFR 1003.1(a)(1). The Board issues both precedent and non-precedent decisions, and a decision may be designated as a precedent by a majority vote of permanent Board members. *See* 8 CFR 1003.1(g)(3).

The 2020 IFR noted that, at the time of its promulgation, EOIR's caseload was at its highest ever, and that EOIR had been hiring a significant number of immigration judges as a result. *See* Expanding the Size of the Board of Immigration Appeals, 85 FR 18105, 18106 (Apr. 1, 2020) (providing statistics for the pending caseloads at the immigration courts and the Board).

The IFR stated that it was necessary at that time to increase the size of the Board in light of these factors. The IFR acknowledged that increasing the size of the Board had the potential to decrease cohesion and lessen the Board's ability to issue precedent decisions. Given these countervailing considerations, the IFR increased the size of the Board by two members, from 21 to 23 members.

B. Provisions of the IFR

The IFR amended 8 CFR part 1003 by revising 8 CFR 1003.1(a)(1) to increase the number of Board members from 21 to 23. The rule revised the third sentence of 8 CFR 1003.1(a)(1) to read as follows: ''The Board shall consist of 23 members.'' The IFR did not make any other changes to the remainder of paragraph (a)(1) or to any other regulatory provision.

C. The Final Rule

This final rule revises the regulations in four ways, the first pertaining to the number of Board members and the remaining three to the appointment of temporary Board members.

With respect to the first revision, EOIR's caseload has continued to rise in the approximately four years since the IFR was promulgated. The agency is currently facing the largest caseload in its history before both the immigration courts and the Board. At the end of fiscal year 2023, there were over 2.4 million cases pending before the courts and over 113,000 appeals pending before the Board.[1] In order to meet the increased immigration court caseload, the Department has prioritized immigration judge hiring, and the immigration judge corps has expanded significantly in recent years (with the number of immigration judges increasing from 442 at the end of fiscal year 2019 to 734 at the end of fiscal year 2023).[2] Immigration judges are collectively completing more cases than ever before, including more than 523,000 case completions in fiscal year 2023.[3]

The IFR observed that, ''if the Board becomes too large, it may have difficulty fulfilling its responsibility of providing coherent direction with respect to the immigration laws,'' noting that ''a substantial increase in the number of Board members may make the process of issuing [precedent] decisions more difficult.'' 85 FR 18106. The Department continues to recognize the importance of this consideration but believes that significant recent increases to the immigration courts' caseload—which has more than doubled since the end of fiscal year 2019—warrant a corresponding expansion of the Board by five members, from 23 to 28 members. The final rule revises 8 CFR 1003.1(a)(1) to do so.

With respect to the other revisions, 8 CFR 1003.1(a)(4) provides that the EOIR Director may designate individuals who meet certain qualifications ''to act as temporary Board members for terms not to exceed six months.'' These temporary Board members ''shall have the authority of'' permanent members ''to adjudicate assigned cases'' but may not vote on any matter decided by the Board en banc or participate in Board votes on whether to designate a decision as precedent. 8 CFR 1003.1(a)(4), (g)(3). The designation of temporary Board members provides ''an appropriate means of responding to an unanticipated increase or temporary surge in the number, size, or type of cases, and other short-term circumstances that might impair the Board's ability to adjudicate cases in a manner that is timely and fair.'' Board of Immigration Appeals: Composition of Board and Temporary Board Members, 71 FR 70855, 70856 (Dec. 7, 2006).

The EOIR Director has had the authority by regulation to designate temporary Board members since 1988. *See* Board of Immigration Appeals; Designation of Judges, 53 FR 15659, 15659–60 (May 3, 1988). Initially, the regulations permitted the EOIR Director to designate temporary Board members ''for whatever time the Director deems necessary.'' *Id.* at 15660. In 1998, the regulations were revised to specify that the Director had the authority to designate temporary Board members ''for terms not to exceed six months.'' *See* Board of Immigration Appeals: En Banc Procedures, 63 FR 31889, 31890 (June 11, 1998). The regulations have since been revised to expand the categories of individuals eligible to serve as temporary Board members,[4] but the reference to temporary Board members serving ''terms not to exceed six months'' has remained unchanged.

Notably, since 1998, eligible individuals have regularly been designated and then re-designated as temporary Board members for consecutive ''terms'' of six months or less. EOIR invests substantial resources in training temporary Board members. It is therefore important they be able to serve consecutive terms. Given this history, the absence of any regulatory limit on a temporary Board member's total length of service, and the long-existing regulatory authority for temporary Board members to serve ''terms'' in the plural, EOIR codifies in this rule its longstanding interpretation that its governing regulations (1) restrict the length of a single term but not the total time that a temporary Board member may serve, and (2) authorize the designation of temporary Board members for additional six-month terms. Taking this longstanding practice into account, this final rule amends 8 CFR 1003.1(a)(4) in the interest of clarity to explicitly state that temporary Board members' six-month terms are ''renewable.'' [5]

This final rule also amends 8 CFR 1003.1(a)(4) to more clearly reflect how temporary Board members are appointed. Generally, the EOIR Director has been responsible for selecting qualified individuals to serve as temporary Board members, with the approval of the Deputy Attorney General where required. However, those individuals have been appointed and reappointed to temporary Board member positions by the Attorney General. *See Carreon* v. *Garland,* 71 F.4th 247, 253–54 (5th Cir. 2023) (stating that ''the Attorney General has authority to renew the terms of temporary BIA members,'' and that ''documentation substantiates the Government's assertion that the temporary BIA members were reappointed by the Attorney General, not the Director''); *Brito* v. *Garland,* 40 F.4th 548, 553 (7th Cir. 2022) (stating that ''after the two temporary Board members' six-month terms had expired, the Attorney General reappointed both members to an additional term of six months''). In the interest of more precisely describing this process, this final rule amends 8 CFR 1003.1(a)(4) to state that the Attorney General ''appoint[s]'' temporary Board members ''upon the recommendation of the Director.''

Finally, this final rule amends 8 CFR 1003.1(a)(4) to more accurately

[1] *See* EOIR Adjudication Statistics: Pending Cases, New Cases, and Total Completions (Oct. 12, 2023), *https://www.justice.gov/media/1174681/dl?inline;* EOIR Adjudication Statistics: All Appeals Filed, Completed, and Pending (Oct. 12, 2023), *https://www.justice.gov/media/1174881/dl?inline.*

[2] *See* EOIR Adjudication Statistics: Immigration Judge (IJ) Hiring (Oct. 2023), *https://www.justice.gov/media/1174816/dl?inline.*

[3] *See* EOIR Adjudication Statistics: Pending Cases, New Cases, and Total Completions (Oct. 12, 2023), *https://www.justice.gov/media/1174681/dl?inline.*

[4] *See* Board of Immigration Appeals: Procedural Reforms to Improve Case Management, 67 FR 54878, 54902 (Aug. 26, 2002); 71 FR at 70857.

[5] The regulations also contain a separate provision allowing the EOIR Director, with the approval of the Attorney General, to designate individuals who meet certain qualifications to serve as temporary immigration judges for ''renewable terms not to exceed six months.'' *See* 8 CFR 1003.10(e)(1)(i), (ii).

characterize the nature of temporary Board members' roles. Though 8 CFR 1003.1(a)(4) currently states that individuals who have been selected ''act'' as temporary Board members, it is more accurate to state that such individuals ''serve'' as temporary Board members. They are appointed to positions on the Board and are not considered ''acting'' Board members who merely perform the functions and duties of the position. Accordingly, this final rule amends 8 CFR 1003.1(a)(4) to state that individuals who have been selected ''serve,'' instead of ''act,'' as temporary Board members.

D. Provisions of the Final Rule

The final rule revises the third sentence of 8 CFR 1003.1(a)(1) to read: ''The Board shall consist of 28 members.'' The final rule further revises the first and second sentences of 8 CFR 1003.1(a)(4) to state that temporary Board members are ''appoint[ed]'' by the Attorney General ''upon the recommendation of the Director,'' and that they subsequently may ''serve'' for ''renewable terms.''

II. Public Comments on the IFR

The IFR was exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date because it is a rule of management or personnel as well as a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a)(2), (b)(A), (d). The Department nonetheless chose to promulgate the rule as an IFR in order to provide the public with an opportunity for post-promulgation comment.

A. Summary of Public Comments

The IFR's comment period closed on May 1, 2020, with 11 comments received.[6] Individual commenters submitted nine comments, and organizations submitted two comments. Three comments expressed overall support for expanding the Board, although two of those comments concurrently opposed other facets of the IFR or the immigration system as a whole.

B. Comments Expressing Support for the IFR

Comment: Three commenters generally supported the 2020 IFR's expansion of the Board. Commenters noted that expanding the Board was a ''positive step'' toward more timely review of appeals and addressing the growing caseload. In addition, two of those commenters suggested adding even more Board positions due to the size of the pending caseload and its anticipated future growth.

Response: The Department appreciates the commenters' support for the rule. In the 2020 IFR, the Department assessed that expanding the Board to 23 members was warranted. 85 FR at 18106. In light of further growth to EOIR's caseload, the Department has now determined that it is appropriate to expand the Board by five additional members, for a total of 28 members, and the Department is doing so in this final rule.[7] The Department believes that adding five additional members strikes the proper balance between addressing EOIR's growing caseload and maintaining cohesion amongst Board members. This further expansion is in line with the suggestions of two of the commenters referenced above.

C. Comments Expressing Opposition to the IFR

1. Contradicts Prior Rulemakings

Comment: Some commenters expressed opposition to the 2020 IFR because they disagreed with the Department's determination that 23 Board members were necessary. One organization commented that the Department failed to address why the ''optimum'' size of the Board changed from 21 members (as provided by a 2018 final rule that expanded the Board from 17 to 21 members) to 23 members (as provided by the 2020 IFR). The organization also urged the Department to ''fully explain why the additional two Board members are necessary.'' The organization stated that the Department used the ''exact same language'' in both the 2020 IFR and the 2018 final rule. *Compare* 83 FR at 8322 (''Keeping in mind the goal of maintaining cohesion and the ability to reach consensus, but recognizing the challenges the Board faces in light of its current and anticipated increased caseload . . . .''), *with* 85 FR at 18106 (same).

Relatedly, another organization commented that the 2018 final rule and the 2020 IFR together increased the Board's size by six members—a 26 percent increase. This organization argued that such an increase contradicted the reasoning in both the 2018 final rule and the 2020 IFR that the Board must maintain ''coherent direction'' and ''administrability'' in issuing precedent decisions. *See* 85 FR 18106; 83 FR 8322.

Another organization opposed the 2020 IFR's reasoning for adding more Board members, alleging that it was inconsistent with justifications in a 2002 rulemaking that implemented procedural reforms for the Board. The commenter pointed to statements the Department made at the time that the addition of new Board members had not reduced the backlog of cases and that ''the problem [was] rooted in the structure and procedures of the Board.'' Board of Immigration Appeals: Procedural Reforms to Improve Case Management, 67 FR 7309, 7310 (Feb. 19, 2002) (proposed rule); *see also* Board of Immigration Appeals: Procedural Reforms to Improve Case Management, 67 FR 54878, 54894 (Aug. 26, 2002) (final rule) (''The continued expansion of the Board has not effectively reduced the existing case backlog. The one element that has begun to help reduce the backlog—streamlining—is being expanded through this rule.'').

This organization alleged that the 2020 IFR directly contradicted this reasoning by adding more Board members as a way to address the current and anticipated pending caseload, while failing to consider or offer analysis of streamlining methods. The organization was concerned that the 2020 IFR represented a departure from the uniformity principles that had prompted the 2002 reforms to Board procedures and would lead to delays in adjudicating immigration cases.

Other commenters more generally stated that additional Board members would not resolve the Board's backlog, identifying the roots of the problem as related to immigration policy and increased immigration enforcement efforts over the course of several presidential administrations without the necessary infrastructure to support such efforts.

Response: The Department does not believe that any elements of the 2020 IFR or the present final rule conflict with prior rules regarding the number of Board members.

First, the Department did not imply in the 2018 final rule that the Board's

[6] The Department reviewed all 11 comments submitted in response to the rule; however, the Department did not post four of the comments to *regulations.gov* for public inspection. Of these comments, three were unrelated to the rulemaking, involving questions about personal immigration matters or concerns about the previous administration's social media activity, and one included only the word ''test.'' Accordingly, the Department posted seven comments.

[7] In addition, the Department notes that this is the third time in recent years that it has engaged in rulemaking to expand the size of the Board. *See* Expanding the Size of the Board of Immigration Appeals, 83 FR 8321 (Feb. 27, 2018); 2020 IFR, 85 FR 18105. Should the Department determine in the future that additional Board members would help EOIR achieve its mission, the Department may engage in further rulemaking at that time.

optimum size would always be 21 members, nor did it imply in the 2020 IFR that the Board's optimum size would always be 23 members. Instead, as the Department recognized in both the 2018 final rule and the 2020 IFR, the appropriate number of Board members may fluctuate over time based upon changing factors. For example, the Department stated in the 2018 final rule that it had recently hired new immigration judges and that it ''expect[ed] that, as these additional immigration judges enter on duty, the number of decisions rendered by the immigration judges nationwide will increase, and the number of appeals filed with the Board will increase as a result.'' 83 FR 8321–22. The 2020 IFR also referenced the recent hiring of additional immigration judges and similarly predicted that these hirings would result in increased appeals, *see* 85 FR 18106. The present final rule is likewise premised in part on recent increases in cases and the hiring of additional immigration judges.

Second, the 2020 IFR weighed the benefit of additional members against potential challenges achieving cohesion and consensus as the Board grows. *See* 85 FR 18106. In deciding to expand the Board again through the present final rule, the Department has similarly balanced the benefits of expansion against its costs. The Department's ultimate weighing of the relevant costs and benefits will predictably change over time in response to changed circumstances. But because the Department considered in the 2020 IFR the importance of Board cohesion as part of its overall determination of the appropriate number of Board members, and has again considered the importance of cohesion in this final rule while reaching a different ultimate conclusion about the number of Board members necessary at this time, neither the 2020 IFR nor the present final rule contradicts the Department's prior statements on the importance of Board cohesion and similar considerations.[8]

The Department also disagrees with any contention that the 2020 IFR conflicted, or that the present final rule conflicts, with the Department's 2002 statements identifying procedural reforms, as opposed to additional Board members, as the solution for tackling the Board's pending caseload. At that time, the Department implemented numerous procedural changes designed to increase the Board's adjudicatory efficiency, including the establishment of a case screening system and allowances for single-member Board decisions in certain circumstances. *See* 8 CFR 1003.1(e); *see also* 67 FR 54880–81. In addition, the Department determined that it would reduce the size of the Board to 11 members 180 days after enacting that rule. 67 FR 54893. The Department noted that the decision to reduce the Board to 11 members was intended to respond to ''resource needs, capacities and resources of the Board'' at that time, and further recognized that the determination about the appropriate number of Board members could change ''in light of changing caseloads and legal requirements following implementation'' of the 2002 rule. *Id.* While the Department determined at that time that the procedures implemented by the rule would adequately address the Board's backlog, even after ultimately reducing the size of the Board to 11 members, the Department made clear that it would ''continuously review'' the rule's efficacy in achieving the Department's goals. *Id.* at 54881.

Despite the prior expansions and procedural reforms, the Board's caseload has continued to increase, and the issues the Board faced in 2002 differ from those the Board faced when the 2020 IFR was promulgated and continues to face today.[9] The Department's response to circumstances on the ground in 2020 and again today, as the Board's caseload continues to increase despite the reforms implemented in 2002, is not in conflict with the 2002 rulemaking, which in any event expressly recognized that the Board's staffing may be adjusted depending upon changing needs.[10]

Finally, comments attempting to tie the Board's backlog to longstanding concerns about immigration policy and enforcement are outside the scope of this rulemaking. The 2020 IFR amended the regulations to expand the Board from 21 to 23 members, and this final rule now further expands the Board to 28 members. The Department's purpose in expanding the Board has been and is to ensure that the Board can fairly and expeditiously adjudicate cases given its increasing caseload, bearing in mind the need to maintain the Board's cohesion. Neither the 2020 IFR nor this rulemaking have purported to resolve the backlog in its entirety, and general issues involving immigration policy and enforcement are outside the scope of this limited rulemaking. Accordingly, the Department declines to respond to the generalized policy and enforcement concerns referenced above.

2. Policy Concerns

Comment: One organization opposed the 2020 IFR in part on the grounds that the Board's backlog is most efficiently reduced not by adding Board members but rather by hiring more attorneys, paralegals, and administrative staff. This organization cited the Department's cost analysis of Board adjudications in another rulemaking, which the organization characterized as demonstrating that Board members have the highest salary but contribute the least amount of substantive work in adjudications. *See* Fee Review, 85 FR 11866, 11873 (Feb. 28, 2020) (proposed rule). The organization noted that increasing the number of attorneys, paralegals, and administrative staff would have an additional benefit because such positions would ''not have to be weighed against the goals of maintaining cohesion and the ability to reach consensus'' (internal quotations omitted).

Response: The Department disagrees that the Board's increasing caseload can be addressed exclusively by hiring staff members. Although attorneys, paralegals, and administrative staff play a critical role at the Board, only Board members may actually decide appeals. That said, the Department will, on an ongoing basis, evaluate the need for additional attorneys, paralegals, and administrative staff to support the new Board members so as to ensure that the Board's adjudicatory capacity is not limited by insufficient Board personnel.

Comment: Commenters expressed opposition to the 2020 IFR based on assertions that the Department and EOIR have engaged in irregular hiring practices. Commenters objected to the appointment of specific Board members in 2019, based upon their backgrounds and alleged ideology. Commenters also raised concerns that some Board members have served simultaneously as

[8] Further, the Department notes that the Attorney General may issue precedent opinions where necessary. 8 CFR 1003.1(h). Notably, the Attorney General may direct the Board to refer cases to himself, or the Chairman or a majority of the Board may refer cases to the Attorney General. 8 CFR 1003.1(h)(1)(i)–(ii). The availability of Attorney General review further mitigates concerns over a heightened risk of lack of consensus amongst a greater number of Board members, especially when that risk is weighed against the need to increase the capacity to adjudicate cases before the Board.

[9] *Compare* 67 FR 54878 (57,597 pending appeals on September 30, 2001), *with* EOIR Adjudication Statistics: All Appeals Filed, Completed, and Pending, *https://www.justice.gov/media/1174881/dl?inline* (Oct. 12, 2023) (over 72,000 pending appeals at the end of fiscal year 2019, and over 113,000 pending appeals at the end of fiscal year 2023).

[10] To the extent that the 2020 IFR and this final rule could be characterized as a change in position from the 2002 rulemaking, the Supreme Court has made clear that an agency may change its position, so long as it provides a reasoned explanation for the change and demonstrates that there are ''good reasons'' for the new policy. *FCC* v. *Fox Television Stations,* 556 U.S. 502, 515–16 (2009).

both immigration judges and Board members, and also that some Board members have not been required to physically report to EOIR's headquarters in Falls Church, Virginia.

One organization urged the Department to commit to a transparent hiring process that ''does not favor specific ideological perspectives.''

Response: As an initial matter, the Department notes that specific hiring practices for the Board, including the procedures for selecting future Board members and the criteria for considering applicants, are outside the scope of the 2020 IFR, which relates only to the Department's determination regarding the total number of authorized Board member positions. For the same reasons, concerns regarding the work location of certain Board members, EOIR's management of Board members' caseloads, and similar administrative issues also fall outside the scope of this rulemaking.

Nevertheless, the Department emphasizes that Board members, as is the case with all EOIR employees, are selected on their own merit following a thorough hiring process. EOIR ''welcome[s] applicants from the many communities, identities, races, ethnicities, backgrounds, abilities, religions, and cultures of the United States who share [DOJ's and EOIR's] commitment to public service.'' *See* Department of Justice, job posting for Appellate Immigration Judge (Board Member), *https://www.justice.gov/legal-careers/job/appellate-immigration-judge-3* (last updated June 2023). These commenters have offered no basis to conclude that the Department's process for hiring Board members will inhibit the effective functioning of the Board as expanded by this rulemaking.

Comment: One organization expressed opposition to the 2020 IFR based on an alleged lack of transparency, pointing to a lawsuit that advanced concerns with how EOIR responded to a Freedom of Information Act (''FOIA'') request that pertained to the hiring of Board members.

Response: The Department declines to respond in a public rulemaking to the commenter's remarks about pending litigation. Nevertheless, EOIR processes and responds to all FOIA requests in accordance with the relevant laws and regulations. FOIA requests may be submitted through the Public Access Link at *https://foia.eoir.justice.gov/app/Home.aspx,* or mailed to:

Office of the General Counsel Attn: FOIA Service Center, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2150, Falls Church, VA 22041

Comment: Commenters raised concerns pertaining to the substance of some Board decisions and to some Board members' alleged ideology. One organization argued that the 2020 IFR furthered efforts to ''shift the ideology'' of the Board by adding members who would be ''ideologically aligned'' with ''prioritizing speed over due process, and prioritizing deportation over fairly adjudicated cases.'' The organization asserted that the Board's role had evolved into narrowing eligibility for ''virtually every form of relief.''

One commenter expressed concerns about eroding the ''core ideal of inclusion for all,'' while another alleged that the Department had improperly influenced immigration judge decisions by pressuring judges to favor one party in proceedings over another.

One commenter argued that an independent commission should be responsible for appointing Board members with the intention that the commission would preclude appointment of ''partisan judges'' to the Board.

Response: The primary purpose of this rulemaking is to expand the Board given its increased caseload. Concerns about the substance of recent Board decisions or hypothetical future Board decisions, or about the alleged ideology of Board members, are outside the scope of this rulemaking.

Nevertheless, the Department disagrees with the above comments and declines to implement the suggestion to form an independent commission to appoint Board members. The 2020 IFR was not, and the present final rule is not, politically motivated, and commenters' assertions that Board members act in a political capacity are unsubstantiated. Members of the Board are not political appointees but rather are hired as career civil servants who are unaffiliated with a particular administration. The hiring of Board members may not be, and is not, based on a candidate's personal political affiliation. *See* 5 U.S.C. 2302(b)(1)(E) (prohibiting discrimination against federal employees or applicants for federal employment on the basis of political affiliation). In deciding cases, Board members exercise independent judgment and discretion in accordance with the regulations. 8 CFR 1003.1(d)(1)(i)–(ii). The Board is required to adjudicate all cases before it fairly and expeditiously. *See* 8 CFR 1003.1(d)(1). The Department and EOIR do not pressure Board members to do otherwise or to issue decisions that contravene the statutes, regulations, and caselaw that govern the Board's adjudications.

3. Suggestions

Comment: One commenter suggested that the Department add four Board member positions instead of two positions. The commenter explained that adding four positions would increase efficiency such that cases could be more quickly decided. Citing the costs of immigration detention, the commenter explained that reducing the time to issue decisions would save the government money by reducing the amount of time noncitizens in removal proceedings spend in detention. Further, the commenter explained that the difficulty of reaching a consensus would not significantly change by adding four members instead of two.

Response: The Department appreciates the commenter's suggestion. As explained above, the present final rule expands the Board by five additional members, for a total of 28 members. EOIR's caseload has risen since the 2020 IFR was promulgated, and the Department believes expanding the Board to 28 members appropriately balances the need for efficient adjudications against the need to maintain cohesion and protect the Board's ability to reach consensus. The Department may, if warranted by changing circumstances, engage in future rulemaking to further alter the size of the Board.

Comment: Several commenters provided suggestions regarding the Board's case processing, management, and organization. These suggestions, and the Department's responses, are as follows:

- *Suggestion:* The Board should ''hear arguments on cases to gain a deeper understanding of the government's position and importantly the immigrant's position.'' *Response:* The decision whether to hear an oral argument in a case is made at the discretion of a three-member panel or the en banc Board. *See* 8 CFR 1003.1(e)(7).
- *Suggestion:* The Board should move from a paper system to an electronic, online system, which the commenter suggested would improve the efficiency of adjudications and increase confidentiality of files. *Response:* The Board is transitioning from a paper filing system to an electronic filing system. *See* EOIR Electronic Case Access and Filing, 86 FR 70708 (Dec. 13, 2021).
- *Suggestion:* The Board should raise filing fees in order to hire more temporary Board members, if necessary, and staff. *Response:* EOIR is not a fee-funded agency, and monies collected in filing fees are not applied to EOIR

staffing. Therefore, raising the Board's filing fees would not increase the Board's ability to hire temporary Board members and other personnel.

• *Suggestion:* The Department should ''consider auditing and revitalizing the streamlining reforms to better scale its caseload management up (or down) in response to the surge crises that are intrinsic to modern migration flows.'' *Response:* As noted above, the Board's current caseload is significantly larger than when the regulatory ''streamlining'' procedural provisions were promulgated in 2002.[11] Though those provisions remain in the regulations, the Department believes that an effective way to manage the current increase in caseload is to increase the size of the Board.

• *Suggestion:* The Department should use temporary Board members to a greater extent at the initial screening review to ''divert[ ] more appeals to single member review for affirmance without opinion.'' *Response:* Temporary Board members can be, and are, assigned to the Board's screening panel. Decisions whether particular cases meet the requirements for affirmances without opinion are made by Board members, including temporary Board members, on a case-by-case basis. *See* 8 CFR 1003.1(e)(4).

• *Suggestion:* The Board should improve its management of certain types of cases at the initial screening review, including appeals of asylum decisions based on mixed claims of law and fact regarding country conditions and appeals of denials of discretionary waivers of removability. *Response:* As noted elsewhere, the Board's caseload has grown significantly in recent years. While the Board sometimes modifies its procedures for screening cases, the Department believes that no such procedural changes would be sufficient to address the Board's current increased caseload, and that increasing the size of the Board is necessary at this time.

• *Suggestion:* The Board should increase the rate of summary dismissals on frivolity grounds. *Response:* Summary dismissals of appeals are governed by 8 CFR 1003.1(d)(2), and a case must meet certain requirements in order for a summary dismissal to be appropriate. Determinations whether to summarily dismiss cases are made by Board members on a case-by-case basis.

• *Suggestion:* The Department should hire more immigration judges and add more immigration courts across the country rather than focus its efforts on the Board. *Response:* As noted above, EOIR has already expanded the immigration judge corps significantly in recent years.[12]

• *Suggestion:* The Department should change policies pertaining to the beginning phases of the immigration adjudication process, not to the final step, so that there are fewer immigration cases to begin with. *Response:* Decisions whether to place foreign-born individuals in immigration court proceedings are made by DHS, and not by the Department, and therefore are outside the scope of this rulemaking.

4. Miscellaneous Concerns

Comment: One commenter raised concerns about the number of Board members on each panel if the Board has a total of 23 members. The commenter explained that, with 23 members, the Board would consist of seven panels of three members and one panel of two members; the commenter was concerned that splits would inevitably result from the two-member panel. The commenter stated that 8 CFR 1003.1, establishing the current system of seven panels of three members, controlled and allowed the Board to properly function.

Response: The commenter misinterprets 8 CFR 1003.1(a)(3), which governs the division of the Board into panels. This provision principally gives the Chairman the authority to ''divide the Board into three-member panels'' and to ''assign any number of Board members'' to the Board's ''screening panel,'' which, under the Board's case management system, is responsible for the initial evaluation of cases. 8 CFR 1003.1(a)(3), (e). The three-member panels referenced in 8 CFR 1003.1(a)(3) are composed of different combinations of Board members. In other words, the same three Board members need not be permanently assigned only to one panel. Regardless of the size of the Board, neither 8 CFR 1003.1(a)(3) nor any other regulatory provision permits cases to be decided by two-member panels, and this rulemaking has not resulted, and will not result, in any such adjudications.

Comment: One commenter alleged that the Department did not address whether it ''believe[d] that this consistent increase of cases will cease after the number of [Board] members is increased.'' The commenter remarked that it seemed likely that the Department would have to add more Board members in the future.

Response: There are many variables that affect the Board's caseload, and the Department cannot project the Board's future caseload with certainty. This final rule increases the Board's size from 23 to 28 members. Going forward, the Department may, if warranted, alter the size of the Board via additional rulemakings.

Comment: One commenter suggested that further data would be helpful to know whether a larger number of Board members would, in fact, make it more difficult to reach consensus when issuing precedent decisions. The commenter provided the following examples that would be helpful for such an inquiry: the number of decisions that fail to receive a necessary majority of votes to become precedent and the percentage of approval by which recent precedent decisions have passed.

Response: The Department appreciates the comment regarding acquiring data to determine whether increasing the Board's size affects its ability to reach consensus; the Department may consider this suggestion for future rulemakings. At this time, however, no such data is available.

Comment: Another commenter criticized the immigration system as a whole, stating that it constitutes a ''web of bureaucracy'' developed over the past century.

Response: The commenter's concern with the immigration system as a whole is outside the scope of this rulemaking. As a result, the Department declines to respond.

IV. Regulatory Requirements

A. Administrative Procedure Act

Notice and comment is unnecessary because this is a rule of management or personnel as well as a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(a)(2), (b)(A). For the same reasons, this rule is not subject to a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2), (d).

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (''RFA''), ''[w]henever an agency is required by section 553 of [the Administrative Procedure Act], or any other law, to publish general notice of proposed rulemaking for any proposed rule, . . . the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.'' 5 U.S.C. 603(a); *see also* 5 U.S.C. 604(a). Such analysis is not required when a rule is exempt from notice-and-

[11] *Compare* 67 FR 54878 (57,597 pending appeals on September 30, 2001), *with* EOIR Adjudication Statistics: All Appeals Filed, Completed, and Pending (Oct. 12, 2023), *https://www.justice.gov/media/1174881/dl?inline* (over 72,000 pending appeals at the end of fiscal year 2019, and over 113,000 pending appeals at the end of fiscal year 2023).

[12] *See* EOIR Adjudication Statistics: Immigration Judge (IJ) Hiring (Oct. 2023), *https://www.justice.gov/media/1174816/dl?inline.*

comment rulemaking under 5 U.S.C. 553(b) or other law. Because this is a rule of internal agency organization and therefore is exempt from notice-and-comment rulemaking, no RFA analysis under 5 U.S.C. 603 or 604 is required.

C. Unfunded Mandates Reform Act of 1995

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

D. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14094 (Modernizing Regulatory Review)

This rule is limited to agency organization, management, or personnel matters and is therefore not subject to review by the Office of Management and Budget pursuant to section 3(d)(3) of Executive Order 12866, Regulatory Planning and Review. Nevertheless, the Department certifies that this regulation has been drafted in accordance with the principles of Executive Order 12866, section 1(b), Executive Order 13563, and Executive Order 14094. Executive Orders 12866, 13563, and 14094 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, reducing costs, harmonizing rules, and promoting flexibility. The benefits of this rule include providing the Department with an appropriate means of responding to the increased number of appeals to the Board. The public will benefit from the expansion of the number of Board members because such expansion will help EOIR adjudicate cases in a fair, efficient, and timely manner. Overall, the benefits provided by the Board's expansion outweigh the costs of employing additional federal employees.

E. Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

G. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new or revised recordkeeping or reporting requirements.

H. Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804(2). This action pertains to agency organization, management, and personnel and, accordingly, is not a ''rule'' as that term is used in 5 U.S.C. 804(3). Therefore, the reports to Congress and the Government Accountability Office specified by 5 U.S.C. 801 are not required.

List of Subjects in 8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

Accordingly, for the reasons stated in the preamble, part 1003 of title 8 of the Code of Federal Regulations is amended as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 1. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 2. In § 1003.1:

■ a. Revise the third sentence of paragraph (a)(1) and the first and second sentences of paragraph (a)(4) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

(a)(1) * * * The Board shall consist of 28 members. * * *

* * * * *

(a)(4) * * * Upon the recommendation of the Director, the Attorney General may in his discretion appoint immigration judges, retired Board members, retired immigration judges, and administrative law judges employed within, or retired from, EOIR to serve as temporary Board members for renewable terms not to exceed six months. In addition, upon the recommendation of the Director and with the approval of the Deputy Attorney General, the Attorney General may in his discretion appoint one or more senior EOIR attorneys with at least ten years of experience in the field of immigration law to serve as temporary Board members for renewable terms not to exceed six months.

* * * * *

Dated: March 27, 2024.

Merrick B. Garland,

Attorney General.

[FR Doc. 2024–06929 Filed 4–1–24; 8:45 am]

BILLING CODE 4410–30–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

[NRC–2022–0103]

RIN 3150–AK83

Radioactive Source Security and Accountability

AGENCY: Nuclear Regulatory Commission.

ACTION: Discontinuation of rulemaking activity.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is discontinuing the rulemaking activity, ''Radioactive Source Security and Accountability.'' The purpose of this document is to inform members of the public that this rulemaking activity is being discontinued and to provide a brief discussion of the NRC's decision to discontinue the rulemaking. The rulemaking activity will no longer be reported in the NRC's portion of the Unified Agenda of Regulatory and Deregulatory Actions (the Unified Agenda).

DATES: Effective April 2, 2024, the rulemaking activity discussed in this document is discontinued.

ADDRESSES: Please refer to Docket ID NRC–2022–0103 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0103. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that it is referenced in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew Carrera, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–1078; email: *Andrew.Carrera@nrc.gov;* or Anita Gray, Office of Nuclear Material Safety and Safeguards; telephone: 301–415–7036; email: *Anita.Gray@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

In SECY–22–0112, ''Proposed Rule: Radioactive Source Security and Accountability (3150–AK83; NRC–2022–0103),'' dated December 19, 2022 (ADAMS Accession No. ML22278A035), the NRC staff provided the Commission a proposed rule for approval. The proposed rule would have amended regulations in parts 30, 40, and 70 of title 10 of the *Code of Federal Regulations* to further ensure validity of license applicants. The proposed rule also would have required licensees transferring category 3 quantities of radioactive material to verify licenses through the NRC License Verification System or by contacting the license-issuing authority to confirm that the recipient licensee is authorized to receive the type, form, and quantity of radioactive material to be transferred. Additionally, the proposed rule would have required that generally licensed devices containing category 3 quantities of byproduct material could only be transferred to licensees possessing a specific NRC or Agreement State license. The proposed rule also would have updated the oral certification method and removed an obsolete method of obtaining other sources of information.

II. Discussion

In the staff requirements memorandum (SRM) for SECY–22–0112, ''Staff Requirements—SECY–22–0112—Proposed Rule: Radioactive Source Security and Accountability (3150–AK83; NRC–2022–0103),'' dated March 8, 2024, (ADAMS Accession No. ML24068A046), the Commission stated that it was ''unable to reach a decision on the staff's recommended proposed rule on radioactive source security and accountability that would amend regulations in title 10 of the *Code of Federal Regulations* to further ensure validity of license applicants. Therefore, the proposed rule is not approved.'' As directed by the Commission in SRM–SECY–22–0112, the NRC will be exploring other rulemaking pathways to update the oral certification method and remove the obsolete method of obtaining other sources of information.

III. Conclusion

The NRC is discontinuing the Radioactive Source Security and Accountability rulemaking. In the next edition of the Unified Agenda, the NRC will update the entry for this rulemaking activity and reference this document to indicate that the rulemaking activity is no longer being pursued. This rulemaking activity will appear in the completed actions section of that edition of the Unified Agenda but will not appear in future editions. If the NRC decides to pursue similar or related rulemaking activities in the future, it will inform the public through new rulemaking entries in the Unified Agenda.

Dated: March 27, 2024.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

[FR Doc. 2024–06828 Filed 4–1–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0158]

Security Zone; Lower Mississippi River, Mile Marker 94 to 97 Above Head of Passes, New Orleans LA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a security zone for all navigable waters within 400 yards of the Left Descending Bank (LDB) of the Lower Mississippi River (LMR) Mile Marker (MM) 94.4 to MM 95.1, Above Head of Passes (AHP), New Orleans, LA. This security zone is necessary to provide security and protection for visiting personnel during the events related to the French Quarter Festival. No person or vessel may enter this security zone unless authorized by the Captain of the Port New Orleans (COTP) or a designated representative.

DATES: The regulations in 33 CFR 165.846 will be enforced from 10 a.m. on April 11, 2024, until 10 p.m. on April 14, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander William A. Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a security zone in 33 CFR 165.846 for events related to French Quarter Festival from 10 a.m. on April 11, 2024 until 10 p.m. on April 14, 2024. This action is being taken to provide security and protection for visiting personnel during the events related to the French Quarter Festival. The security zone will cover all navigable waters within 400 yards of the Left Descending Bank on the Lower Mississippi River from MM 94.4 to MM 95.1 AHP, New Orleans, LA. No person or vessel may enter this security zone unless authorized by the Captain of the Port New Orleans (COTP) or a designated representative. A designated representative means any Coast Guard

commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Sector New Orleans; to include a Federal, State, and/or local officer designated by or assisting the COTP in the enforcement of the security zone. To seek permission to enter, contact the COTP or a designated representative by telephone at (504) 365–2545 or VHF–FM Channel 16 or 67. Those in the security zone must transit at their slowest speed and comply with all lawful orders or directions given to them by the COTP or a designated representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will inform the public of the enforcement period of this security zone through Broadcast Notices to Mariners (BNMs) and Marine Safety Information Bulletin (MSIB).

Dated: March 27, 2024.

K.K. Denning,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2024–06932 Filed 4–1–24; 8:45 am]

BILLING CODE 9110–04–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 519 and 552

[GSAR Case 2022–G505; Docket No. 2023–0020; Sequence No. 1]

RIN 3090–AK56

General Services Administration Acquisition Regulation; Reformatting Clause for Direct 8(a) Contracting

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is issuing a final rule amending the General Services Administration Acquisition Regulation (GSAR) to revise the formatting for a contact clause included in solicitations, contracts, and orders issued under GSA's 8(a) Partnership Agreement with the Small Business Administration.

DATE: This final rule is effective on May 2, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Clarence Harrison, Jr., GSA Acquisition Policy Division, at *gsarpolicy@gsa.gov* or 202–227–7051. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*. Please cite GSAR Case 2022–G505.

SUPPLEMENTARY INFORMATION:

I. Background

On June 23, 2022, GSA, and the Small Business Administration (SBA) signed a revised 8(a) partnership agreement as part of an effort to bring new entrants into federal contracting. Sections 7(j)(10) and 8(a) of the Small Business Act (the Act) (15 U.S.C. 636(j)(10) and 637(a)) authorize the U.S. Small Business Administration (SBA) to establish a business development program, which is known as the 8(a) Business Development (8(a) BD) Program. GSA partners with SBA to promote appropriate utilization of 8(a) program participants. Once certified, participants are eligible to receive federal contracting preferences.

To ensure successful implementation of the 8(a) partnership agreement, GSA is taking the opportunity to update any inconsistent and unclear 8(a) policies. GSA is cleaning up confusing regulatory language for the use of clauses prescribed for solicitations, contracts, and orders issued under GSA's 8(a) Partnership Agreement. One of the paragraphs within GSAR 519.870–2 identifies instructions for modifying a FAR clause. In order to be more clear and consistent with the clause prescriptions, GSA is recognizing the FAR deviation through a new GSAR clause number rather than through buried instructions.

II. Publication of This Final Rule for Public Comment Is Not Required

The statute that applies to the publication of the GSAR is the Office of Federal Procurement Policy statute (codified at title 41 of the United States Code). Specifically, 41 U.S.C. 1707(a)(1) requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This rule is not required to be published for public comment, because while this rule relates to the expenditure of appropriated funds, it is not required to be published for public comment, because it does not have a significant effect or impose any new requirements on contractors or offerors.

This rule revises the formatting for an existing 8(a) Program contract clause identified in GSAR 519.870–2. The instructions for modifying FAR Clause 52.219–18 is currently buried within GSAR 519.870–2 and this final rule replaces and reformats the instructions in GSAR Clause 552.219–18. The text within GSAR Clause 552.219–18 is the same as previously provided through the modification instructions for FAR Clause 52.219–18.

The FAR clause deviation associated with this GSAR case is issued following consultation with the Chair of the Civilian Agency Acquisition Council (CAAC) in accordance with FAR 1.404(a) and GSAM 501.404(a).

III. Executive Orders 12866, 13563, and 14904

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866 and E.O. 13563. OIRA has determined this is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

IV. Congressional Review Act

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 final 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. The General Services Administration will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and 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).

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to this rule, because an opportunity for public comment is not required to be given for this rule under 41 U.S.C. 1707(a)(1).

Accordingly, no regulatory flexibility analysis is required and none has been prepared.

VI. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 519 and 552.

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 519 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 519 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 519—SMALL BUSINESS PROGRAMS

■ 2. Revise section 519.870–2 to read as follows:

519.870–2 Contract clauses.

(a) Insert the following clauses in solicitations, contracts, and orders in accordance with the provisions of Section 8(a) of the U.S. Small Business Administration Act as implemented by FAR subpart 19.8 and GSA's 8(a) Partnership Agreement:

(1) 552.219–74, Section 8(a) Direct Award;

(2) FAR 52.219–14, Limitations on Subcontracting; and

(3) FAR Deviation. 552.219–18, Notification of Competition Limited to Eligible 8(a) Participants. GSA has a FAR Deviation that allows the use of clause 552.219–18 in lieu of the FAR clause at 52.219–18.

(b) Do not insert the following clauses in solicitations, contracts, and orders in accordance with the provisions of Section 8(a) of the U.S. Small Business Administration Act as implemented by FAR subpart 19.8 and GSA's 8(a) Partnership Agreement:

(1) FAR 52.219–11, Special 8(a) Contract Conditions;

(2) FAR 52.219–12, Special 8(a) Subcontract Conditions; and

(3) FAR 52.219–17, Section 8(a) Award.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Add section 52.219–18 to read as follows:

552.219–18, Notification of Competition Limited to Eligible 8(a) Participants (DEVIATION FAR 52.219–18).

As prescribed in 519.870–2(a), insert the following clause:

Notification of Competition Limited to Eligible 8(a) Participants (DATE) (DEVIATION FAR 52.219–18)

(a) Offers are solicited only from:

(1) Small business concerns expressly certified by the Small Business Administration (SBA) for participation in SBA's 8(a) Program and which meet the following criteria at the time of submission of offer—

(i) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

(ii) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(2) A joint venture, in which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause, that complies with 13 CFR 124.513(c); or

(3) A joint venture—

(i) That is comprised of a mentor and an 8(a) protégé with an approved mentor-protégé agreement under the 8(a) program;

(ii) In which at least one of the 8(a) program participants that is a party to the joint venture complies with the criteria set forth in paragraph (a)(1) of this clause; and

(iii) That complies with 13 CFR 124.513(c).

(b) By submission of its offer, the Offeror represents that it meets the applicable criteria set forth in paragraph (a) of this clause.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation. A Contracting Officer may consider a joint venture for contract award. SBA does not approve joint ventures for competitive awards, but see 13 CFR 124.501(g) for SBA's determination of participant eligibility.

(d) The Contractor will notify the Contracting Officer in writing immediately upon entering any agreement (either oral or written) to transfer all or part of its stock.

(End of clause)

[FR Doc. 2024–06825 Filed 4–1–24; 8:45 am]

BILLING CODE 6820–61–P

Proposed Rules

Federal Register
Vol. 89, No. 64
Tuesday, April 2, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0772; Project Identifier MCAI–2023–01203–T]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica 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 ERJ 170 airplanes. This proposed AD was prompted by a manufacturing quality escape concerning some overheat detection system (ODS) sensing elements. This proposed AD would require inspecting the ODS sensing elements and performing applicable corrective actions, and would prohibit the installation of affected parts, as specified in an Agência Nacional de Aviação Civil (ANAC) 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 May 17, 2024.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0772; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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 identified in this NPRM, 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; phone 55 (12) 3203–6600; email: *pac@anac.gov.br;* website: *anac.gov.br/en/*. You may find this material on the ANAC website: *sistemas.anac.gov.br/certificacao/DA/DAE.asp*. It is also available at *regulations.gov* under Docket No. FAA–2024–0772.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

SUPPLEMENTARY INFORMATION:

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–2024–0772; Project Identifier MCAI–2023–01203–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 Joshua Bragg, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: 817–222–5366; email: *joshua.k.bragg@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 2023–11–01, effective November 21, 2023 (ANAC AD 2023–11–01) (also referred to as the MCAI), to correct an unsafe condition on certain Embraer S.A. Model ERJ 170–100 LR, –100 SE, –100 STD, and –100 SU airplanes; and Model ERJ 170–200 LL, –200 LR, –200 STD, and –200 SU airplanes. The MCAI states a quality escape occurred during manufacturing concerning some ODS sensing elements produced before January 31, 2021. A defective sensing element may not be able to detect a thermal bleed leak, which is a latent failure, and depending on the affected area, may start an ignition source in the fuel tank, which could damage some electronic boxes and expose the wing structure to high temperature gradients and unexpected thermal loads, which

could result in reduced structural integrity of the airplane.

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–2024–0772.

Related Service Information Under 1 CFR Part 51

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

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **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 2023–11–01 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 ANAC AD 2023–11–01 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with ANAC AD 2023–11–01 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 2023–11–01 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–0772 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 70 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
5 work-hours × $85 per hour = $425	$0	$425	$29,750

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

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

Authority for This Rulemaking

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

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

Regulatory Findings

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. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.): Docket No. FAA–2024–0772; Project Identifier MCAI–2023–01203–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 17, 2024.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code: 75, Bleed Air.

(e) Unsafe Condition

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

(f) Compliance

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

(g) Requirements

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

(h) Exceptions to ANAC AD 2023–11–01

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

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

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

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

(i) Parts Returned to Supplier

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

(j) Additional AD Provisions

The following provisions also apply to this AD:

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

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

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

(k) Additional Information

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

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the 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 2023–11–01, effective November 21, 2023.

(ii) [Reserved]

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

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

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

Issued on March 27, 2024.

Victor Wicklund,

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

[FR Doc. 2024–06900 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–0583; Airspace Docket No. 24–ANE–1]

RIN 2120–AA66

Establishment of Class E Airspace; York, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes establishing Class E airspace extending upward from 700 feet above the surface for York Hospital Heliport, York, ME to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving the heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this heliport.

DATES: Comments must be received on or before May 17, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2024–0583 and Airspace Docket No. 24–ANE–1 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

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

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

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* anytime. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except for Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Av, College Park, GA 30337; telephone (404) 305–6364.

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 would establish Class E airspace extending upward from 700 feet above the surface at York Hospital Heliport, York, ME, to support standard instrument approach procedures for IFR operations at this heliport.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the proposal's overall regulatory, aeronautical, economic, environmental, and energy-related aspects. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data to ensure the docket does not contain duplicate comments. Commenters should submit only once if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives and a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov*. Recently published rulemaking documents can be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

Incorporation by Reference

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

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

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to establish Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of York Hospital Heliport, York, ME, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at the heliport. Controlled airspace is necessary for the area's safety and management of instrument flight rules (IFR) operations.

Regulatory Notices and Analyses

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

evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis per FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' before any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, 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.

* * * * *

ANE ME, E5 York, ME [New]

York Hospital Heliport, ME
(Lat 43°08′30″ N, long 70°39′02″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of York Hospital Heliport.

* * * * *

Issued in College Park, Georgia, on March 28, 2024.

Patrick Young,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization

[FR Doc. 2024–06914 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AB15

Energy Labeling Rule; Extension of Comment Period

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is extending the deadline for filing comments on its Notice of Proposed Rulemaking (''NPRM'') regarding the Energy Labeling Rule.

DATES: The deadline for comments on the NPRM published on February 2, 2024 (89 FR 7566) is extended. Comments must be received on or before April 19, 2024.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Energy Labeling Rule (16 CFR part 305) (Matter No. R611004)'' on your comment, and file your comment online at *https://www.regulations.gov,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex L), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889), or Hong Park (202–326–2158), Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Comment Period Extension

On February 2, 2024 (89 FR 7566), the Commission published in the **Federal Register** an NPRM concerning the Energy Labeling Rule (''Rule''), with an April 2, 2024, comment deadline. The Commission published the NPRM to seek public comments on potential changes to the Rule, including: (1) labels for air cleaners, clothes dryers, miscellaneous refrigeration products, and portable electric spas; (2) modifications to existing labels for clothes washers, televisions, and several heating products; (3) revisions to the current requirements for affixing labels on showroom models; and (4) several minor amendments to improve the Rule. The Consumer Technology Association (''CTA''), representing interested industry members, has subsequently requested a 17-day extension of the public comment period in order to complete consumer research which it intends to submit in this proceeding.[1] No commenters have objected to CTA's request.

The Commission agrees that allowing additional time for filing comments in response to the NPRM would help facilitate the creation of a more complete record. Given the short duration of the extension, the specificity of the request, and the lack of opposition to such an extension, the Commission has therefore decided to extend the comment period to April 19, 2024. This extension will provide CTA adequate time to complete its consumer research.

II. Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before April 19, 2024. Write ''Energy Labeling Rule (16 CFR part 305) (Matter No. R611004)'' on your comment. Because of the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. As a result, we strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form. Your comment—including your name and your State—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on *https://www.regulations.gov.*

If you file your comment on paper, write ''Energy Labeling Rule (16 CFR part 305) (Matter No. R611004)'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex L), Washington, DC 20580. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the publicly accessible website at *www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive

[1] *See* Comment of CTA, Docket ID FTC–2024–0008–0006 and FTC–2024–0008–0007 (Feb. 20 and 26, 2024) at *https://www.regulations.gov/.*

or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it, and visit *https://www.regulations.gov/docket/FTC-2024-0008* to read a plain-language summary of the proposed rule. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 19, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2024–07077 Filed 4–1–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0195]

RIN 1625–AA00

Safety Zone; Narragansett Bay, Newport, RI

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the East Passage, Narragansett Bay, RI. This action is necessary to provide for the safety of life on these navigable waters near East Passage, Narragansett Bay, RI, during a sailboat race. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Southeastern New England or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 2, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2024–0195 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST2 Christopher Matthews, Waterways Management Division, Sector Southeastern New England, U.S. Coast Guard; telephone 571–610–4969, email *SENEWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On January 31, 2024, an organization notified the Coast Guard that it will be conducting a sailboat race from 10:30 a.m. through 6:30 p.m. on June 21, 2024, with a rain date of June 22, 2024. The sailboat race will launch from the East Passage in Narragansett Bay south of Rose Island. The Captain of the Port Sector Southeastern New England (COTP) has determined that potential hazards associated with the sailboat race would be a safety concern for anyone attempting to transit within East Passage.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the East Passage of the Narragansett Bay before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 10:30 a.m. to 6:30 p.m. on June 21, 2024, with a rain date of June 22, 2024. The safety zone would cover one of three possible locations depending on the weather. Safety Zone ''A'' will cover all navigable waters from an area just south of Rose Island near Fort Adams. Safety Zone ''B'' for inclement weather will cover all navigable waters near Brenton Point. Safety Zone ''C'' will cover all navigable waters from an area south of Rose Island near Castle Hill, RI.

The proposed location of the Safety Zone ''A'' is as follows:

Latitude	Longitude
41°29′08″ N	071°20′04″ W: thence to
41°28′27″ N	071°20′40″ W: thence to
41°28′38″ N	071°21′14″ W: thence to
41°29′25″ N	071°20′52″ W: and thence to the point of beginning.

If weather conditions prohibit a safe race start within the approach to Newport Harbor using Safety Zone ''A'' the race will begin offshore using Safety Zone ''B'' or Safety Zone ''C'':

The proposed location of the Safety Zone ''B'' is as follows:

Latitude	Longitude
41°26′04″ N	071°22′16″ W: thence to
41°25′36″ N	071°21′58″ W: thence to
41°25′21″ N	071°22′38″ W: thence to
41°25′49″ N	071°22′56″ W: and thence to the point of beginning.

The proposed location of the Safety Zone ''C'' is as follows:

Latitude	Longitude
41°27′57″ N	071°21′44″ W: thence to
41°27′16″ N	071°22′00″ W: thence to
41°27′27″ N	071°22′50″ W: thence to
41°28′08″ N	071°22′34″ W: and thence to the point of beginning.

The starting line will take place within one of the proposed regulated areas and will be decided prior to the race pending current weather conditions. The starting line box will be the restricted part of the waterway within the regulated area and that exact location will be broadcasted prior to the race start. The duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled sailboat race. No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or by phone at 866–819–9128. Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative. The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size location, duration, and time-of-day of the safety zone. We expect the adverse economic impact to this area to be minimal. Although this regulation may have adverse impact on the impact, the potential impact will be minimized for the following reasons: the safety zone will be in effect for a maximum of 8 hours during the day of the event; vessels will only be restricted from the area in the East Passage of the Narragansett Bay during those limited periods when the races are actually on going; there is an alternate route, the West Passage of Narragansett Bay, that does not add substantial transit time, is already routinely used by mariners, and will not be affected by this safety zone. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners (BNMs) via VHF–FM marine channel 16 about the area, and the proposed rule would allow vessels to seek permission to enter the area.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed 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 rule would economically affect it.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves safety zone lasting 8 hours that would prohibit entry within the regulated area. Normally such actions are categorically excluded from further review under paragraph L60(a) 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 proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2024–0195 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a ''Subscribe'' option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 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.T01–0195 to read as follows:

§ 165.T01–0195 Safety Zone; Narragansett Bay, Newport, RI.

(a) *Location.* Only one safety zone will be enforced based on the local weather conditions the day of the race. We will make notice of exactly what safety zone will be enforced via Broadcast Notice to Mariners via marine channel 16 (VHF–FM). The following areas are safety zones.

(1) Safety Zone ''A'' encompasses all navigable waters located within the following latitude and longitude points:

Latitude	Longitude
41°29′08″ N	071°20′04″ W: thence to
41°28′27″ N	071°20′40″ W: thence to
41°28′38″ N	071°21′14″ W: thence to
41°29′25″ N	071°20′52″ W: and thence to the point of beginning.

(2) Safety Zone ''B'' encompasses all navigable waters located within the following latitude and longitude points:

Latitude	Longitude
41°26′04″ N	071°22′16″ W: thence to
41°25′36″ N	071°21′58″ W: thence to
41°25′21″ N	071°22′38″ W: thence to
41°25′49″ N	071°22′56″ W: and thence to the point of beginning.

(3) Safety Zone ''C'' encompasses all navigable waters located within the following latitude and longitude points:

Latitude	Longitude
41°27′57″ N	071°21′44″ W: thence to
41°27′16″ N	071°22′00″ W: thence to
41°27′27″ N	071°22′50″ W: thence to
41°28′08″ N	071°22′34″ W: and thence to the point of beginning the point of beginning.

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

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at 508–457–3211. Those in the safety zone must comply with all lawful orders or directions given to

them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 10:30 a.m. to 6:30 p.m. on June 21, 2024, or June 22, 2024. To alleviate the effects of this proposed rule on the public, the COTP may elect to temporarily suspend enforcement of these security zones.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through local notice to mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Clinton J. Prindle,

Captain, U.S. Coast Guard, Captain of the Port Sector Southeastern New England.

[FR Doc. 2024–06930 Filed 4–1–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0032; FRL–11685–01–R9]

Air Plan Revisions; California; San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the San Diego County Air Pollution Control District (SDCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns a rule submitted to address section 185 of the Clean Air Act (CAA or ''Act''). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before May 2, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2024–0032 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kira Wiesinger, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3827 or by email at *wiesinger.kira@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SDCAPCD	45	Federally Mandated Ozone Nonattainment Fees	06/09/2022	07/20/2022

On January 20, 2023, the submittal for SDCAPCD Rule 45 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 45 in the California SIP. The SDCAPCD adopted this rule on June 9, 2022, and CARB submitted it to the EPA on July 20, 2022.

C. What is the purpose of the submitted rule?

Under sections 182(d)(3), (e), (f) and 185 of the Act, states with ozone nonattainment areas classified as ''Severe'' or ''Extreme'' are required to submit a SIP revision that requires major stationary sources of volatile organic compounds (VOC) or oxides of nitrogen (NO_X) emissions in the area to pay a fee if the area fails to attain the standard by the attainment date. The required SIP revision must provide for annual payment of the fees, computed in accordance with CAA section 185(b).

The San Diego County ozone nonattainment area has been classified as Severe for the 2008 ozone National Ambient Air Quality Standards (NAAQS). The SDCAPCD submitted Rule 45 to satisfy the requirement to submit a CAA section 185 fee program for the 2008 ozone NAAQS.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). The EPA is also evaluating the rule for consistency with the statutory requirements of CAA section 185. Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency

requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

B. Does the rule meet the evaluation criteria?

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability and SIP revisions. The EPA's technical support document (TSD) has more information on our evaluation.

C. The EPA's Recommendations To Further Improve the Rule

The TSD includes recommendations for the next time the local agency modifies the rule.

D. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve submitted Rule 45 because it fulfills all relevant requirements. We will accept comments from the public on this proposal until May 2, 2024. If the EPA takes final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the 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, the EPA is proposing to incorporate by reference SDCAPCD Rule 45, ''Federally Mandated Ozone Nonattainment Fees,'' adopted on June 9, 2022, which addresses the CAA section 185 fee program requirements. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the 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 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 (Public Law 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 proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule 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. The 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.'' The EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

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

List of Subjects in 40 CFR Part 52

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

Dated: March 27, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2024–06880 Filed 4–1–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2023–0181; FF09E22000 FXES1113090FEDR 245]

RIN 1018–BH61

Endangered and Threatened Wildlife and Plants; Removal of Roanoke Logperch From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove the Roanoke logperch (*Percina rex*) from the Federal List of Endangered and Threatened Wildlife due to recovery. The species is currently listed as endangered. Our review of the best available scientific and commercial data indicates that the threats to the Roanoke logperch have been eliminated or reduced to the point that the species no longer meets the definition of an endangered or a threatened species under the Endangered Species Act of 1973, as amended (Act). Populations of Roanoke logperch are shown to be stable or expanding and reproducing (as evidenced by sustained recruitment) since the time of listing in each of the following river systems: Upper Roanoke River, Pigg River, Smith River, and Nottoway River. The number of streams where the Roanoke logperch has been observed has increased from 14 streams from the time of listing in 1989 to 31 streams in 2019. Accordingly, we propose to delist the Roanoke logperch throughout all of its range, which is in Virginia and North Carolina. If we finalize this rule as proposed, the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to the Roanoke logperch.

DATES: We will accept comments received or postmarked on or before June 3, 2024. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by May 17, 2024.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R5–ES–2023–0181, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R5–ES–2023–0181, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: This proposed rule and supporting documents, including the 5-year review, the recovery plan, and the species status assessment (SSA) report, are available at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2023–0181.

FOR FURTHER INFORMATION CONTACT: Cindy Schulz, Field Supervisor, U.S. Fish and Wildlife Service, Virginia Ecological Services Field Office, 6669 Short Lane, Gloucester, VA 23061; telephone 804–654–1842. 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. Please see Docket No. FWS–R5–ES–2023–0181 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) Reasons we should or should not remove the Roanoke logperch from the List of Endangered and Threatened Wildlife.

(2) Relevant data concerning any threats (or lack thereof) to the Roanoke logperch, particularly any data on the possible effects of climate change as it relates to habitat, as well as the extent of State protection and management that would be provided to this fish as a delisted species.

(3) Current or planned activities within the geographic range of the Roanoke logperch that may have either a negative or positive impact on the species.

(4) Considerations for post-delisting monitoring, including monitoring protocols and length of time monitoring is needed, as well as triggers for reevaluation.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is an endangered species or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.*

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. For example, based on the new information we receive (and if relevant, any comments on that new information), we may conclude that the species should remain listed as endangered, or we may conclude that the species should be reclassified from endangered to threatened. We will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by

the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of these virtual public hearings is consistent with our regulation at 50 CFR 424.16(c)(3).

Peer Review

A species status assessment (SSA) team prepared an SSA report for the Roanoke logperch. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

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 Roanoke logperch SSA report. We sent the SSA report to nine independent peer reviewers and received three responses. Results of this structured peer review process can be found at *https://www.regulations.gov.* In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the final SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed in Peer Review above, we received comments from three peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions, including clarifications in terminology. Peer reviewers also suggested supplementing the content to more explicitly address key assumptions, uncertainties, and knowledge gaps, and they made other editorial suggestions. One peer reviewer emphasized the need for research to address key unknowns that remain in the ecology of early-life stages, logperch movement ecology (including dam effects), and empirical relationships between stressors such as instream sedimentation measures (*e.g.,* embeddedness) and Roanoke logperch fitness measures (*e.g.,* growth, survival, reproduction). These data gaps are mentioned or implied in summaries of the species' life history and in a detailed discussion of caveats and uncertainties in the SSA report (Service 2022a, pp. 46–47). Otherwise, no substantive changes to our analysis and conclusions in the SSA report were deemed necessary. All peer reviewer comments are addressed in version 1.1 of the SSA report (Service 2022a, entire).

Previous Federal Actions

On March 18, 1975, the Service published in the **Federal Register** (40 FR 12297) a notice of review for the Roanoke logperch and 28 other freshwater fishes. Five years later, on May 13, 1980, the Service published in the **Federal Register** (45 FR 31447) another notice of review for the Roanoke logperch.

On December 30, 1982, we published in the **Federal Register** (47 FR 58454) our candidate notice of review (CNOR) classifying the Roanoke logperch as a Category 2 candidate species. Category 2 status included those taxa for which information in our possession at that time indicated the possible appropriateness of listing as endangered or threatened but sufficient information was not available to biologically support a proposed rule.

On October 6, 1983, we received a petition from Mr. Noel M. Burkhead to list the Roanoke logperch as a threatened species. On January 16, 1984, we published in the **Federal Register** (49 FR 1919) a 90-day finding that the petition presented substantial information that the petitioned action may be warranted. On October 12, 1984, we made a 12-month finding that the petitioned action was warranted but precluded from immediate proposal because of other pending proposals to list, delist, or reclassify species (hereafter, a ''warranted-but-precluded finding''). The announcement of the warranted-but-precluded finding was published in the **Federal Register** on July 18, 1985 (50 FR 29238).

Between 1986 and 1988, we published three notices of findings on pending petitions and descriptions of progress on listing actions in the **Federal Register** (51 FR 996, January 9, 1986; 52 FR 24312, June 30, 1987; 53 FR 25511, July 7, 1988). Each of these notices retained the warranted-but-precluded finding on the October 6, 1983, petition.

On September 7, 1988, we published in the **Federal Register** (53 FR 34561) a proposed rule to list the Roanoke logperch as an endangered species under the Act, and on August 18, 1989, we published in the **Federal Register** (54 FR 34468) a final rule to list the Roanoke logperch as an endangered species under the Act. This final rule was effective on September 18, 1989, and included a determination that the designation of critical habitat for the species was not prudent at that time.

In 1992, we released a recovery plan for the species (Service 1992, entire). A draft update to the recovery plan was prepared in January 2007 (Service 2007a, entire), but this plan was not finalized.

On April 21, 2006, we published in the **Federal Register** (71 FR 20717) a notice announcing the initiation of a 5-year review for the Roanoke logperch. The resulting recommendation from this 5-year review (Service 2007b, entire) was no change in listing status. We announced the initiation of subsequent 5-year reviews for the Roanoke logperch in 2011, 2018, and 2021 (76 FR 33334, June 8, 2011; 83 FR 39113, August 8, 2018; 86 FR 61778, November 8, 2021). However, reviews were not completed in 2011 and 2018 because they were precluded by higher priorities. The resulting recommendation from the 5-year review completed in 2022 (Service 2022b, entire) is to delist the Roanoke logperch due to recovery.

Background

A thorough review of the biological information on the Roanoke logperch including taxonomy, life history, ecology, and conservation activities, as well as threats facing the species or its habitat is presented in our SSA report (Service 2022a, entire), which is available at *https://www.regulations.gov* under Docket No. FWS–R5–ES–2023–0181. Please refer to the SSA report for additional discussion and background information.

The Roanoke logperch is a large-bodied member of the darters (Etheostomatinae), a diverse subfamily of freshwater fishes in the perch family (Percidae) endemic to the Roanoke, Dan, and Chowan River basins in Virginia and North Carolina. The Roanoke logperch occupies medium to large warm-water streams and rivers of moderate gradient and silt-free substrates (Service 1992, p. 3). Every major riverine habitat with unembedded stream substrates with low silt cover is

exploited by the Roanoke logperch during different phases of life history and season (Jenkins and Burkhead 1994, p. 786).

The overwhelming majority of our knowledge on the Roanoke logperch's biology and habitat needs is based on research conducted in the upper Roanoke River (see Burkhead 1983, entire; Roberts and Angermeier 2006, entire) and comparative studies of Roanoke logperch in the Nottaway River (see Rosenberger and Angermeier 2003, entire). Roanoke logperch feed and spawn over clean gravel, pebble, and cobble substrates in large creeks to medium rivers. They spawn in spring, depositing eggs on the substrate with no subsequent parental care. Newly hatched larvae drift downstream on river currents until they settle out in calm backwaters and pool margins. By their first fall, juveniles begin shifting into the deeper, main-channel habitats occupied by older juveniles and adults. The species matures by age 2–3 and lives up to 6.5 years. Adults appear to undertake extensive upstream spawning migrations, followed by cumulatively downstream migration over ontogeny, or the rest of the fish's lifespan.

All age classes of Roanoke logperch are intolerant of heavy silt cover and embeddedness, both because silt smothers eggs and because the species feeds primarily by flipping over unembedded substrate particles with its snout. The species is more often found in habitats with silt-free substrate, forested watersheds, and large enough stream size to complete its life history. It avoids heavily silted runs and pools, very small creeks, hydrologically unstable tailwaters below dams, and lentic lakes and reservoirs.

As detailed in the 2022 5-year review (Service 2022b, entire), the known geographic distribution of the Roanoke logperch has expanded since the species was listed in 1989. The Roanoke logperch was first collected in the 1880s. State databases contain data collected only since 1940, resulting in an information gap from 1890 to 1940. However, since 1940, the number of streams where the Roanoke logperch has been observed has increased from 4 streams in the 1940s, to 14 streams at the time of listing in 1989, to 31 streams in 2019. In terms of river basins, the Roanoke logperch was known in Virginia from the Roanoke basin in the 1880s and the Chowan basin in the 1940s. The first Roanoke logperch location (Town Creek) in the Dan basin was in the 1970s in Virginia, then the upper Smith River in the 1980s. In the 1990s and 2000s, observations in the Dan basin expanded, including into North Carolina. The first observation of Roanoke logperch in North Carolina was in the Dan River in 2007. No population extirpations are known. The number of 12-digit hydrologic unit codes (HUCs, also known as watersheds) in which the Roanoke logperch has been observed has increased from a total of 27 HUCs in 1989 to 55 HUCs in 2019. A detailed description of the Roanoke logperch's geographic distribution is presented in section 2.3 of the SSA report (Service 2022a, pp. 14–19).

Methodologies for identifying what constitutes a population have varied; therefore, our analysis uses management units (MUs) to assess the current condition and potential future conditions of the species. The definition of an MU is as follows: ''at the smallest spatial grain, we define an MU as a group of individuals occupying a discrete, local geographic area in which demographic exchange is common and habitat conditions are relatively homogeneous. At a larger grain, we define a metapopulation as a group of MUs located in an evolutionarily similar setting and in close-enough proximity that some dispersal and gene flow among MUs within that metapopulation likely has occurred in recent ecological time, at least prior to anthropogenic habitat alteration. The species as a whole is the sum of all metapopulations'' (Service 2022a, p. 20). There are four identified Roanoke logperch metapopulations: Roanoke Mountain, Roanoke Piedmont, Dan, and Chowan. A total of 18 MUs were delineated from these metapopulations. Eleven of these MUs are currently occupied (Upper Roanoke, Pigg, Goose, Otter, Middle Roanoke, Upper Smith, Middle Smith, Lower Smith, Lower Mayo, Middle Dan, Nottoway) and 7 are currently unoccupied (Blackwater, Falling, Upper Mayo, Upper Dan, Lower Dan, Banister, Meherrin) (see table 1 below; Service 2022a, p. 23). For potential new introductions, currently unoccupied MUs were delineated in waterways deemed good candidates for future populations based on suitable habitat conditions. Currently unoccupied ''potential'' MUs were not used in assessing current condition. However, the possibility for these potential MUs to become occupied was considered for analysis of future condition. Additional details on past delineation of populations and spatial associations of the MUs are presented in section 3.2 of the SSA report (Service 2022a, pp. 20–25). We provide a summary of the species' current and future conditions under Summary of Biological Status and Threats, below.

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Table 1. Geographic grouping of waterbodies into MUs and metapopulations.

Metapopulation	MU*	Basin	Primary ecoregion(s)	Presumed status	Constituent waterbodies where Roanoke logperch have been observed
Roanoke Mountain	Upper Roanoke	Roanoke basin	Ridge and Valley/Blue Ridge ecoregions	Occupied	Roanoke River, South Fork Roanoke River, North Fork Roanoke River, Elliott Creek, Mason Creek, Tinker Creek, Glade Creek, Smith Mountain Lake
Roanoke Piedmont	*Blackwater*	Roanoke basin	Piedmont	Unoccupied	None (never observed)
	Pigg		Piedmont	Occupied	Pigg River, Big Chestnut Creek, Snow Creek, Leesville Lake
	Goose		Piedmont	Occupied	Goose Creek
	Otter		Piedmont	Occupied	Big Otter River, Little Otter River
	Middle Roanoke		Piedmont	Occupied	Roanoke (Staunton) River
	Falling		Piedmont	Unoccupied	None (never observed)
Dan	Upper Smith	Dan basin	Piedmont/Blue Ridge ecoregions	Occupied	Smith River, Rock Castle Creek, Otter Creek, Runnett Bag Creek
	Middle Smith		Piedmont/Blue Ridge ecoregions	Occupied	Smith River, Town Creek
	Lower Smith		Piedmont/Blue Ridge ecoregions	Occupied	Smith River
	Upper Mayo		Piedmont/Blue Ridge ecoregions	Unoccupied	None (never observed)
	Lower Mayo		Piedmont/Blue Ridge ecoregions	Occupied	Mayo River
	Upper Dan		Piedmont/Blue Ridge ecoregions	Unoccupied	None (never observed)
	Middle Dan		Piedmont/Blue Ridge ecoregions	Occupied	Dan River, Cascade Creek, Wolf Island Creek, Big Beaver Island Creek
	Lower Dan		Piedmont/Blue Ridge ecoregions	Unoccupied	None (never observed)
	Banister		Piedmont/Blue Ridge ecoregions	Unoccupied	None (never observed)
Chowan	*Meherrin*	Chowan basin	Piedmont/ Southeastern Plains	Unoccupied	None (never observed)
	Nottoway		Piedmont/ Southeastern Plains	Occupied	Nottoway River, Stony Creek, Sappony Creek, Waqua Creek, Butterwood Creek

* MU names presented in italics in this column indicate unoccupied MUs.

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Recovery Criteria

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the Lists of Endangered and Threatened Wildlife and Plants.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species, or to delist a species, is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all of the criteria in a recovery plan being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently, and that the species is robust enough that it no longer meets the Act's definition of an endangered species or a threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery plan. Parties seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan. Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, follow all of the guidance provided in a recovery plan.

In 1992, the objectives of the Roanoke logperch recovery plan were to first reclassify the species from endangered to threatened, then to delist the species (Service 1992, pp. 12–13). The recovery plan states that reclassification to threatened would be initiated when:

(1) Populations of Roanoke logperch are shown to be stable or expanding and reproducing (as evidenced by sustained recruitment) in each of the following river systems: Upper Roanoke River, Pigg River, Smith River, and Nottoway River. Achievement of this criterion will be determined by population monitoring over at least a 10-year period; and

(2) Each of the known populations is protected from present and foreseeable threats that may interfere with the species' survival.

Additionally, the 1992 Roanoke logperch recovery plan states that delisting would be considered when, in addition to meeting the two criteria above, habitat improvement measures have been developed and successfully implemented, as evidenced by a sustained increase in Roanoke logperch population size and/or length of river reach inhabited within the upper Roanoke River drainage and a similar increase in at least two of the other three Roanoke logperch populations (Pigg River, Smith River, or Nottoway River).

As indicated in the most recent 5-year review (Service 2022b, entire), the current recovery plan for the species is 30 years old, thus requiring a reexamination of the adequacy of recovery criteria. The reclassification and delisting criteria in the 1992 plan do not mention North Carolina populations because Roanoke logperch was not known to occur in that State at that time. Additionally, benchmarks in the Plan criteria focus on the health and protection of Roanoke logperch populations however, identifying what constitutes a population is unclear. For example, the Plan, 2007 5-year status review, and associated literature used different methods to identify Roanoke logperch populations. Due to the outdated nature of this recovery plan, we rely on the information on the current and future conditions presented in the SSA report (Service 2022a, entire) to inform the status determination for the species. See Summary of Biological Status and Threats, below, for a discussion of the status of and threats to this species.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species. In 2019, jointly with the National Marine Fisheries Service, the Service issued a final rule that revised the regulations in 50 CFR 424 regarding how we add, remove, and reclassify endangered and threatened species and the criteria for designating listed species' critical habitat (84 FR 45020; August 27, 2019). On the same day, we issued a finalrule that revised 50 CFR 17.31 and 17.71(84 FR 44753) and ended the ''blanket rule'' option for application of section 9prohibitions to species newly listed as threatened after the effective date ofthose regulatory revisions (September 26, 2019).

Our analysis for this decision applied the regulations that are currently in effect, which include the 2019 revisions. However, we proposed further revisions to these regulations on June 22, 2023 (88 FR 40764). In case those revisions are finalized before we make a final status determination for this species, we have also undertaken an analysis of whether the decision would be different if we were to apply those proposed revisions. We concluded that the decision would have been the same if we had applied the proposed 2023 regulations. The analyses under both the regulations currently in effect and the regulations after incorporating the June 22, 2023, proposed revisions are included in our decision file.

The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence.

In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects. The determination to delist a species must be based on an analysis of the same five factors.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain;'' it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define the foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for delisting. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess Roanoke logperch viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events); and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket FWS–R5–ES–2023–0181 on *https://www.regulations.gov.*

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the Roanoke logperch and its resources, and the threats that influence the species' current and future conditions, in order to assess the species' overall viability and the risks to that viability. In addition, the SSA report (Service 2022a, entire) and 5-year review (Service 2022b, entire) document our comprehensive biological status review for the species, including an assessment of the potential threats and beneficial activities to the species.

We identified six factors that may influence Roanoke logperch viability: fine sediment deposition (Factor A), chronic chemical pollution (Factor A), dams and other barriers (Factor A), climate change (Factor E), management/restoration activities aimed at improving habitat quality (Factor A), and existing legal and regulatory mechanisms (Factor D). These factors align with many of the threats discussed in the 2007 5-year review: large dams and reservoirs, small dams/barriers, channelization that will lead to increased sedimentation, agricultural and silvicultural activities (non-point source pollution in the form of fine sediment), and toxic spills (Service 2007b, entire). An additional threat to the Roanoke logperch identified since the 2007 5-year review is changing climate. Climate change is anticipated to affect precipitation, runoff patterns, and stream hydrology, and introduce fine sediment into Roanoke logperch habitat (Service 2022a, p. 29). The complex relationship between the numerous environmental and anthropogenic factors and their influence on the habitat conditions and ultimately on the condition of the Roanoke logperch is presented in more detail in the SSA report (see figure 7 in Service 2022a, p. 33). The Service is not

aware of any evidence that overutilization, competition, predation, disease, or other manmade factors are significant threats to the Roanoke logperch.

Fine Sediment Deposition

Fine sediment is produced through erosion and enters streams and rivers through runoff, especially during storm events (Waters 1995, entire). A variety of human activities accelerate erosion and thereby increase sediment inputs to streams, but urbanization and agriculture are the two most prominent of these activities in the Roanoke logperch's range.

Fine sediments originating from the watershed or channel of a stream remain suspended until they reach a low-velocity area and deposit on the stream substrate. Although suspended sediment can reduce feeding efficiency for a sight feeder like the Roanoke logperch, it likely has a greater negative impact once it deposits on the stream bottom. Deposition of fine sediments like silt and clay on stream substrate likely reduces the fitness and survival of Roanoke logperch adults and the survival and recruitment of age-0 juveniles. Roanoke logperch are invertivores that feed almost exclusively on the stream bottom; they require substrate particles (for example, pebbles, leaves, sticks, etc.) to be mostly unembedded by fine sediment so that they can flip over these particles and access food underneath. Heavily embedded substrates contain lower benthic macroinvertebrate densities and fewer benthic invertivorous fishes (Berkman and Rabeni 1987, entire).

Although uninvestigated to date, we assume that as deposition and embeddedness increase, Roanoke logperch food intake at all life stages will decrease and individual growth and survival rates will decrease. Moreover, silt coverage could smother eggs and reduce their hatching rate, particularly for a gravel spawner like the Roanoke logperch (Berkman and Rabeni 1987, entire). Reduced egg-to-larva survival, along with reduced benthic feeding efficiency for age-0 juveniles, could translate to overall lower recruitment rates for Roanoke logperch populations. Thus, the effects of fine sediments can impact Roanoke logperch population resiliency by reducing population densities and impacting habitat quality.

Chemical Pollution

By definition, water pollution is anthropogenic in origin and alters the chemical composition of a receiving waterbody (U.S. Environmental Protection Agency (USEPA) 2022, entire). Pollutants include organic nutrients such as fertilizer, livestock manure, and human sewage effluent, along with myriad natural and synthetic chemicals including heavy metals, pesticides, cleaners, solvents, pharmaceuticals, and petroleum products, among others.

The population dynamics of the Roanoke logperch were found to be particularly sensitive to acute pollution events that cause substantial one-time reductions in population size (Roberts et al. 2016a, entire). The same study found that, in the upper Roanoke River watershed, seven pollution events resulting in Roanoke logperch mortality occurred over a 35-year period, an average of once every 5 years. The most recent spill event with a known mortality occurred in 2007. These events involved a variety of different pollutants and affected anywhere from 2 to 19 kilometers (km) (1.2 to 11.8 miles (mi)) of river. Such catastrophic events presumably act by temporarily reducing survival of all age classes until the chemical has dissipated, which may take up to a year (Ensign et al. 1997, entire). However, if fish kills occur frequently enough, affect a large enough area, or happen to an already small population, they could threaten the viability of an entire population.

Like fine sediment, water pollution emanates from a variety of sources, including urban, mining, or agricultural runoff, and transportation of chemicals by road, rail, or pipeline. Notably, some fish-kill events impacting the Roanoke logperch stemmed from nonurban causes, such as a liquid manure spill in 1991, and a golf course fungicide spill in 2007 (Roberts et al. 2016a, entire) (Table 2).

Table 2: Summary of all known fish kills reported in the upper Roanoke River watershed (Virginia) occupied by Roanoke logperch *Percina rex* during two periods (1970-1982 and 1991-2013 (from Roberts et al. 2016a, p. 56).

Date of fish kill	Water body	Substance	Stream length affected (km)	Source
October 1970	Roanoke River near Salem	Ethyl benzene-creosote	11.3	Burkhead (1983)
June 1975	Roanoke River near Salem	Unidentified	12.1	Burkhead (1983)
July 1975	Roanoke River near Roanoke	Toluene	Unknown	Burkhead (1983)
June 1976	Roanoke River near Roanoke	Sodium cyanide	12.1	Burkhead (1983)
October 1991	Elliott Creek and South Fork Roanoke River near Shawsville	Liquid manure	19.0	Ensign et al. (1997)
August 2003	Roanoke River near Salem	Various chlorine derivatives	3.8	Kimberly Smith, USFWS
July 2007	North Fork Roanoke River near Blacksburg	Fungicide	2.3	Michael Pinder, VDGIF

In general, however, we expect the risk of a pollution event to be higher in a watershed with greater urbanization, because with urbanization we expect a greater concentration of manufacturing chemicals, industrial and municipal chemical effluents, and chemical transportation via roads, rails, and pipelines. Thus, we expect urbanization to be a primary driver of pollution events affecting the Roanoke logperch.

Dams and Other Barriers

European settlers began constructing milldams and other low-head dams on rivers upon arrival to the Atlantic States (Walter and Merritts 2008, entire). These barriers may have affected connectivity and habitat conditions for the Roanoke logperch historically, but we lack distribution and abundance data for the Roanoke logperch before 1940. Between the 1920s and 1960s, large hydroelectric dams were installed on several large rivers in the Roanoke logperch's range. Although none of these dams were equipped with fish passage technologies, some are short enough and have a modest-enough spillway drop that they may allow for one-way fish

movement (from upstream to downstream) over the spillway. For example, one study found that Martinsville Dam on the middle Smith River does not form a genetic population boundary between Roanoke logperch upstream and downstream of the dam, so the study's authors hypothesized that the dam allows one-way gene flow (Roberts et al. 2013, entire).

However, many of the dams are much larger than the Martinsville Dam, forming an extensive impoundment that would not be suitable habitat for the species, and each of these dams probably constitutes a complete two-way barrier to Roanoke logperch movement. Roanoke logperch have a migratory life history that, in the absence of movement barriers, utilizes multiple sections of a watershed over a lifetime. Although genetic data indicate that Roanoke logperch populations currently have sharp, discrete boundaries (Roberts et al. 2013, entire), these boundaries mostly coincide with dams. Before construction of these dams, population structure might have been more continuous, with more frequent dispersal occurring among now-disconnected streams (Burkhead 1983, entire). Thus, the barrier effect created by dams has potentially fragmented a once more-continuous range into a series of geographically smaller, more isolated populations. This fragmentation reduces resiliency because a declining population cannot be naturally demographically or genetically ''rescued'' by another population.

In addition to a movement barrier, dams can create habitat degradation and loss for Roanoke logperch. Impoundments upstream of dams convert formerly riverine, potentially suitable habitat to lacustrine habitat (relating to or associated with lakes) that is not suitable for Roanoke logperch. Although the species has been observed occasionally in Smith Mountain Lake and Leesville Reservoir, these have been interpreted as waifs attempting dispersal through the reservoirs, rather than resident fish (Jenkins and Burkhead 1994, p. 787). Although completely unstudied, reservoirs upstream of dams may directly increase mortality for Roanoke logperch larvae if the larvae drift into the reservoir from upstream spawning sites and settle in unsuitable lacustrine microhabitats.

Habitat conditions downstream of hydroelectric dams may be unsuitable for Roanoke logperch as well. Hydropeaking discharges (*i.e.,* the practice of releasing pulses of water to increase power production) from Leesville Dam have rendered habitat conditions immediately downstream in the middle Roanoke River unstable and relatively poor for Roanoke logperch. Population density there is relatively low (Smith 2011, pers. comm.). Hydropeaking, combined with a cold hypolimnetic release (*i.e.,* release of water that lies below the thermocline and is perpetually cold), has likewise rendered the middle Smith River immediately downstream from Philpott Dam unsuitable for Roanoke logperch. Not only are Roanoke logperch apparently absent from this reach (Krause et al. 2005, entire), based on genetic results, the cold unsuitable tailwater acts as a movement barrier between Town Creek, an occupied tributary that flows into the unoccupied reach, and the occupied section of middle Smith River, located 4 km (2.5 mi) downstream (Roberts et al. 2013, p. 2060). These habitat losses effectively shrink the adjoining populations to a smaller geographic area, which reduces their potential for resiliency.

Climate Change

Changes to the climate of the Roanoke logperch's geographic range can affect precipitation, runoff patterns, and stream hydrology in ways that negatively affect the species' vital rates and resiliency. In the coming decades, the Roanoke logperch's range is expected to average 5 to 8 degrees Fahrenheit (2.8 to 4.4 degrees Celsius) warmer with around 1 more inch (2.5 centimeters) of rain per year (see section 4.2.1 of SSA report (Service 2022a, pp. 50–53)). Although a modest increase in total rainfall, this rain is expected to come in less predictable, less frequent, more intense storm events (Ingram et al. 2013, entire; Burt et al. 2016, entire). Increased air temperature has the potential to increase evapotranspiration rates, decrease groundwater recharge into streams, and reduce the magnitude of summer baseflows (Ingram et al. 2013, entire; Lynch et al. 2016, pp. 349–350). Increased storm intensity may likewise reduce summer baseflows by raising the runoff to infiltration ratio. More irregular but intense rainfall means ''flashier'' stream flows overall, with higher high flows, lower low flows, and steeper rising and falling limbs of the hydrograph, a situation exacerbated by urbanization and watershed imperviousness (Roy et al. 2010, entire). Stronger storm events also increase the probability that fine sediment will be mobilized in runoff and carried into streams.

Relationships between hydrology and the Roanoke logperch's habitat suitability or vital rates have not been thoroughly investigated. However, in the upper Roanoke River, one study found that age-0 logperch abundance in the fall of their first year was negatively related to the standard deviation of stream flows during the spring (April–June) of that year (Roberts and Angermeier 2007, p. 43). Highly variable flows may directly increase mortality of vulnerable larvae and small juveniles. They also may reduce habitat quality and availability. Age-0 Roanoke logperch have very specific habitat needs during their first summer, requiring unembedded, shallow, and very low-velocity microhabitats, often in the margins of pools (Roberts and Angermeier 2006, p. 4). These microhabitat conditions change rapidly with stream flows; the drying of shallow areas forces Roanoke logperch into deeper areas where they are more vulnerable to aquatic predators, while elevated flows increase velocity beyond the swimming abilities of small fish. Given that storm intensity and stream flashiness are predicted to increase, we predict that it will be more difficult for age-0 Roanoke logperch to locate and track suitable microhabitat configurations, resulting in reduced survival and recruitment. Further, reduced baseflow magnitude may crowd adult Roanoke logperch into smaller areas of suitable habitat within riffle-runs, resulting in increased competition for resources, and potentially reduced fitness and survival of adults. We anticipate that the higher erosion and sediment transport rates likely to result from predicted greater storm intensity would negatively affect growth, recruitment, and survival of Roanoke logperch.

Conservation Efforts: Management and Restoration

Three types of restoration activities have positively benefited Roanoke logperch habitat and population conditions to date: (1) habitat restoration, (2) habitat connectivity restoration, and (3) population restoration. Habitat restoration activities for the Roanoke logperch primarily seek to reduce erosion potential and fine sediment inputs to streams. Projects include reestablishing the riparian zone, fencing livestock out of streams, and placing lands in conservation easements to prevent deforestation. The end goal of all these projects is to reduce new inputs of fine sediment into Roanoke logperch habitats. These activities have occurred, and as discussed below, we expect them to continue in watersheds harboring Roanoke logperch, regardless of the Federal listing status of the species.

Unfortunately, there is no efficient or cost-effective way to remove existing deposited sediment, which has accumulated in some cases over the course of centuries and can be removed only very gradually through downstream transport during flushing flow events (Walter and Merritts 2008, entire). Since it can take decades to see the positive effects of Roanoke logperch habitat restoration, the near-term resiliency of Roanoke logperch populations is not as strongly affected by these management activities as by connectivity and population restoration activities.

Habitat connectivity restoration involves the removal of, or passage over, barriers to Roanoke logperch movement in stream reaches, most notably dams. Multiple dams have been removed within the species' range in recent decades, including Wasena Dam on the upper Roanoke River near Roanoke, Virginia, in 2009; Veteran's Park Dam on the Pigg River near Rocky Mount, Virginia, in 2013; and Rocky Mount Power Dam on the Pigg River near Rocky Mount, Virginia, in 2016. Additionally, fish passages were designed and installed for Roanoke logperch past the Lindsey Bridge Dam on the Dan River near Madison, North Carolina, in 2020. Removal of additional dams is plausible, given the current trend toward dam removal in the eastern United States (Bellmore et al. 2017, entire). Barrier removal and passage increase the effective area of adjacent populations and allow increased dispersal among populations, both of which increase population resiliency (Gido et al. 2016, entire).

Population restoration involves the intentional anthropogenic movement of fish across movement barriers they otherwise would be unable to cross. The individual fish being stocked could be translocated wild fish or propagules produced in a hatchery. Fish can be stocked into currently occupied habitat to augment the demography or genetic diversity of that population, reintroduced into a previously occupied habitat that is no longer occupied, or introduced into a habitat that has never been occupied by the species. Augmentation is intended to bolster resiliency by increasing vital rates, total population size, and genetic diversity, whereas introduction and reintroduction are intended to bolster redundancy by increasing the number of populations on the landscape. Collectively, propagation, augmentation, reintroduction, translocation, and introduction (hereafter ''PARTI'') form a suite of interrelated population restoration tactics that have been successfully used in the recovery of a variety of imperiled fish species (Minckley et al. 2003, entire; Vrijenhoek 1996, entire; Yamamoto et al. 2006, entire). As of 2023, PARTI activities conducted by State, Federal, and non-profit agencies are beginning for the Roanoke logperch; propagation procedures have been established (Ruble et al. 2009, entire; Ruble et al. 2010, entire), a decision document is in place to provide a scientific basis to PARTI decisions for the Roanoke logperch (Roberts 2018, entire), an online decision-support tool has been developed based on input from the Structured Decision-making Team to guide hatchery and PARTI activities (Gibson 2022, entire), and a Statewide aquatic species safe harbor program in North Carolina will enable the use of PARTI for the Roanoke logperch (see 87 FR 51698; August 23, 2022). As such, there is strong momentum to incorporate PARTI into recovery actions for the Roanoke logperch in the future. As discussed further below, regardless of the Federal listing status of the Roanoke logperch, we expect the States of Virginia and North Carolina to continue to prioritize Roanoke logperch population restoration in the future, as they do with other State-listed fishes and freshwater mussels.

Regulatory Mechanisms

Over time, the Roanoke logperch has benefited from the protections and resources provided by State and Federal laws and regulations. The species has been listed as an endangered species under the Act since 1989. Federal listing status has affected the course of large proposed and completed projects within the geographic range of the species. For example, construction plans for the Roanoke River Flood Reduction Project were adjusted to reduce instream construction traffic, minimize silt runoff, and closely monitor water quality and Roanoke logperch population levels, to minimize incidental take of the species (Roberts et al. 2016c, entire). Coordination for this project spanned multiple years, and a final Biological Opinion was issued by the Service in 2017. Time-of-year restrictions on construction projects during the species' spawning window (March 15–June 30), recommended by both State and Federal agencies, have reduced streambed and floodplain disturbance and sediment loading during this key time in the species' lifecycle. Federal status also has allowed access to funding mechanisms available only for use on federally listed species, including the funds provided under section 6 of the Act. These funds have been used to restore riparian habitats to reduce sediment inputs, remove barriers to Roanoke logperch movement, and fund a range of university research studies that have advanced understanding of the species' basic biology (*e.g.,* Rosenberger and Angermeier 2003, entire), distribution and abundance (*e.g.,* Roberts 2012b, entire), and genetics and evolution (*e.g.,* Roberts et al. 2013, entire).

In our SSA analysis, we did not consider protections, funding, or other benefits of listed status, including any other Federal, State, or local protections or benefits arising solely as a result of the species being listed under the Act when assessing risks to the Roanoke logperch. Rather, we consider only non-Act-related regulatory mechanisms and restoration activities that are existing or that we are reasonably confident will occur in the future regardless of the species' Federal listing status, such as State-level protection and population management, habitat restoration, and dam removal and passage.

The Roanoke logperch has been listed as endangered by Virginia since 1989, and by North Carolina since its discovery in that State in 2007. The species is given high priority in both States' wildlife action plans, allowing access to funding mechanisms such as State wildlife grants. As with the Act's section 6 funds, State wildlife grants have been used to restore riparian habitats, remove barriers, and fund research studies. These State listings are independent of the species' Federal status. There is no reason to expect a change in Federal status would be followed by the States, both of which are currently increasing Roanoke logperch propagation and translocation capacity. Thus, we expect State-level emphasis on protections and population restoration to carry into the future, regardless of the species' Federal status. Furthermore, there is considerable interest in dam removal in the eastern United States for human safety, fish passage restoration, and river channel restoration. We, therefore, expect removal of dams and other barriers to continue within the range of the Roanoke logperch, regardless of the species' Federal listing status.

In addition to benefiting from the Act and State-level listings, the Roanoke logperch and other stream fishes benefit from the provisions of the Clean Water Act (CWA; 33 U.S.C. 1251 *et seq.*). The CWA's National Pollutant Discharge Elimination System permitting system regulates point sources of water pollution and has reduced some of the most chronic chemical pollution impacts of the early to mid-20th

century. Although controlling non-point source pollution—in particular, runoff of fine sediment, nutrients, and other contaminants—has been more difficult, CWA provisions such as total maximum daily load standards, which States are required to develop and achieve, have helped spur watershed-level management plans aimed at stemming pollutants potentially harmful to the Roanoke logperch, such as nutrients and sediment.

No previous research has directly quantified relationships between the threats to the species and the Roanoke logperch's vital rates, so in assessing current and future conditions, we based our assumptions about the nature of these relationships on a combination of ecological theory, expert judgment, and simulation models (Service 2022a, p. 26). Effects from specific threats such as fine sediment deposition, chemical pollution, dams and other barriers, and climate change are represented in the models but are not explicitly attributed to each threat.

Current Condition

Considering the biology of the species and key factors influencing condition, we assessed the current resiliency of occupied Roanoke logperch MUs (see table 1, above, for a list of MUs) based on indices of population density, genetically effective population size, habitat quality, and geographic range complexity. An overall index of current MU resiliency that combines this information is available in the SSA report (see section 3.4 of SSA report (Service 2022a, pp. 34–37)). In summary:

- Higher population density is indicative of a more highly productive habitat, and therefore reflects a population with higher resiliency since the habitat is able to support the needs of the species at a more concentrated scale.
- An important component of resiliency is being able to resist the influence of inbreeding depression on individual fitness, and ultimately, being able to adapt to changing future conditions. A larger value for genetically effective population size is needed over the long term (dozens to hundreds of generations) to maintain adaptive variation in the face of genetic drift; therefore, a higher value is indicative of higher resiliency in a population.
- Current habitat quality was qualitatively assigned as an aggregate assessment of that habitat's ability to support Roanoke logperch population growth, and we considered MUs with high habitat quality to have highest resiliency. Additionally, populations are less likely to go extinct when they are widely distributed across complex and diverse habitats. Accordingly, having more stream segments is indicative of more refugia and protection from impacts from negative events, and therefore indicative of higher resiliency.

MUs were given scores of low, intermediate, or high for each of the above indices and then an overall index was calculated. The overall index was the sum of the high scores (max of 4) minus the sum of the low scores (max of 4), plus 3 (to scale the final index to have a minimum of one). Any MU with an overall score ≥ 5 exhibited at least three ''high'' indices, so we considered these MUs to have highest resiliency. In contrast, any MU with an overall score of 1 exhibited at least two ''low'' indices and no ''high'' indices, so we considered these MUs to have the lowest resiliency. MUs with scores of 2–4 were considered intermediately resilient. The overall resiliency index for current condition is highest in the Upper Roanoke, Pigg, Upper Smith, Middle Dan, and Nottoway MUs, and is either high or intermediate in 9 of the 11 currently occupied MUs (Service 2022a, p. 40).

We used MU resiliency to further assess redundancy and representation at the metapopulation and species levels. For each metapopulation, a redundancy index was calculated, with the assumption that each MU's contribution to redundancy is a function of both the resiliency and the geographic complexity of that MU (Service 2022a, pp. 36–37). The overall current redundancy score is highest in the Dan metapopulation, followed by the Roanoke Mountain and Chowan metapopulations, and is intermediate in the Roanoke Piedmont metapopulation; therefore, overall redundancy is considered intermediate to high across all four metapopulations.

Representation describes the ability of a species to adapt to changing environmental conditions over time. By maximizing representation, a species' adaptive capacity to face unpredictable future changes to its environment are also maximized. Given that all four metapopulations, which are combinations of ecoregion and basin, within the known range of the Roanoke logperch have multiple (redundant) MUs with intermediate or high effective populations, we deemed that species-level adaptive capacity, or representation, is high for the species. The high estimated resiliency and redundancy of the Chowan metapopulation is particularly important for species-level representation, given that it is the most genetically distinctive metapopulation (Roberts et al. 2013, entire). The Chowan metapopulation occurs in the most ecologically distinct environment (Jenkins and Burkhead 1994, pp. 786–787; Rosenberger and Angermeier 2003, entire) and, therefore, potentially contributes disproportionately to the evolutionary diversity of the species.

Future Conditions

We assessed future conditions for the Roanoke logperch using a population viability model that forecasts population size and species' viability 50 years into the future. We assumed a current date of 2020, thus forecasting population size to year 2070. We chose a 50-year timeframe because we had information to reasonably assess urbanization, climate change, and risks to the species over this timeframe. Assuming a 4.5-year generation time for the Roanoke logperch (Roberts 2012a, p. 89), 50 years represents just over 10 generations for the species to respond to changing future conditions. As with current condition, future conditions were assessed using the three conservation biology principles of resiliency, redundancy, and representation, with resiliency gauged by assessing MU persistence probability over the 50-year timeframe and metapopulation redundancy and species representation gauged by counts of MUs with intermediate to high resilience.

We forecasted future conditions for the Roanoke logperch under 12 scenarios, featuring three management categories contrasted with four different assumptions about future environmental conditions including different watershed urbanization levels, climate change scenarios, and conservation management (*i.e.,* Roanoke logperch population restoration efforts and habitat connectivity restoration via barrier removals) (see chapter 4 of SSA report (Service 2022a, pp. 41–57)). The forecasted future conditions showed 8 of 11 MUs with 99 or 100 percent probability of persistence under all 12 scenarios until 2070. Even under the worst plausible future scenario (increased risk of watershed urbanization, decreased habitat suitability, no population augmentation, and no barrier removal), at least one MU is projected to persist in each of three metapopulations (Roanoke Mountain, Roanoke Piedmont, Chowan), and all of the MUs in the fourth metapopulation, Dan, are projected to maintain resiliency. Redundancy is projected to be consistently high in the Roanoke Mountain, Dan, and Chowan metapopulations. In contrast,

redundancy of the Roanoke Piedmont metapopulation depends strongly on future environmental and management conditions. Under declining habitat conditions, the Roanoke Piedmont metapopulation maintains only one MU, whereas with conservation management (*i.e.,* PARTI and barrier removal), it maintains three MUs. Species-level representation is relatively high under scenarios where multiple Roanoke Piedmont MUs maintain resiliency, but only partially achieved in situations where the Roanoke Piedmont metapopulation decreases to one remaining MU.

In summary, owing to a large geographic range that includes at least some numerically large populations in good-quality habitat, we estimate that species-level representation and redundancy for Roanoke logperch currently is relatively high. All four metapopulations exhibit at least some redundancy of MUs in intermediate to high resiliency condition. In the future, under the worst-case scenario of worsening habitat quality, increased risk, and no management, 8 of 11 MUs are projected to remain highly resilient by year 2070. The Roanoke Piedmont metapopulation and its constituent MUs show the lowest resiliency and redundancy, particularly under scenarios involving worsening habitat quality. However, these declines could potentially be offset through restoration measures like PARTI (augmenting weak populations and establishing new ones) and/or barrier removal and passage (allowing natural augmentation and colonization).

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Determination of the Roanoke Logperch's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

When the Roanoke logperch was listed as endangered in 1989, it was thought to be endemic to Virginia and to inhabit only the upper Roanoke, Pigg, Nottoway, and Smith rivers. Since then, the species' known range has expanded to 31 streams spanning 55 watersheds (HUCs) in both Virginia and North Carolina, and restoration work (such as barrier removal, construction of fish passages, and riparian habitat improvement) has occurred throughout the species' range. Furthermore, no population extirpations are known.

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we deemed that six factors influence Roanoke logperch viability. First, fine-sediment deposition emanating from urbanization, agriculture, and other sources smothers eggs and reduces feeding efficiency, potentially resulting in reduced growth, survival, and recruitment. Second, chronic chemical pollution reduces habitat suitability for the Roanoke logperch, and acute pollution events reduce survival and population size. Third, dams and other barriers inhibit fish movement, fragmenting populations into smaller areas and reducing demographic rescue and gene flow among populations. Fourth, climate change has the potential to alter hydrology and sediment delivery by increasing flood magnitudes and flow variability in general, reducing flow predictability, decreasing summer/fall base flows, and increasing erosion and runoff of sediment, potentially reducing habitat suitability for all age-classes of Roanoke logperch and increasing direct mortality of vulnerable juveniles during spring floods. Fifth, existing legal and regulatory mechanisms such as protections of the Act, the CWA, and State-level equivalents have benefitted the species through prohibitions on activities that may cause take and by facilitating funding opportunities used for Roanoke logperch research and conservation (note, however, that our assessment of status does not take into account the protections and benefits of the species being listed under the Act). Sixth, management activities aimed at improving habitat quality (*e.g.,* riparian revegetation to reduce silt loading), restoring habitat connectivity (*e.g.,* removing dams and constructing fish passages over barriers), and directly manipulating populations through propagation, augmentation, reintroduction, translocation, and introduction of fish (*i.e.,* PARTI) have increased the resiliency and redundancy of populations.

Based on the species' expanded geographic distribution since the time of listing, the lack of empirical records of watersheds that have become unoccupied or populations that have become extirpated, and our analysis of threats, we conclude that the Roanoke logperch has a very low risk of extinction in the near term. The current number and distribution of intermediate to high resilience MUs is high across all four metapopulations, species-level adaptive capacity is relatively high, and threats in the near term are low. Thus, the Roanoke logperch does not meet the Act's definition of an endangered species.

Twelve future scenarios were modeled 50 years into the future. Regardless of projected increases in urbanization or climate change, and even in the absence of augmentation or barrier removal, all occupied MUs in the Roanoke Mountain, Dan, and Chowan metapopulations had high persistence probabilities. Only the Roanoke Piedmont differed, with two high and two low probabilities of persistence among its four MUs. Also, under all scenarios, all four metapopulations have MUs with high probabilities of persistence to 2070; thus, species-level representation is projected to remain high into the future. Even under the worst plausible case of worsening habitat quality, increased risk, and no conservation management, 8 of 11 MUs are projected to persist to 2070. Therefore, the Roanoke logperch is not likely to become in danger of extinction within the foreseeable future, and it does not meet the Act's definition of a threatened species.

Thus, after assessing the best available information, we conclude that the

Roanoke logperch is not in danger of extinction now or likely to become so within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. Having determined that the Roanoke logperch is not in danger of extinction or likely to become so within the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction (*i.e.,* endangered) or likely to become so within the foreseeable future (*i.e.,* threatened) in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction or likely to become so within the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

We identified two portions of the range to consider: (1) the Roanoke Piedmont metapopulation, because it was variable in terms of resiliency and had the lowest redundancy score; and (2) the Chowan metapopulation, because it houses the most genetically unique population of the species. The remaining two portions of the range (Roanoke Mountain and Dan metapopulations) were not considered due to their consistently high resiliency and redundancy, indicating the species is not in danger of extinction or likely to become so within the foreseeable future in those portions. In undertaking this analysis for the Roanoke logperch, we choose to address the significance question first. In the absence of a legal definition of significance in the Act, we determined significance on a case-by-case basis for the Roanoke logperch using a reasonable interpretation of significance and providing a rational basis for our determination. In doing so, we considered what is currently observed about the contributions made by each geographic portion in terms of biological factors, focusing on the importance of each in supporting the continued viability of the species. We also evaluated whether the area occupies relatively large or particularly high-quality or unique habitat.

The Roanoke Piedmont represents one of the four metapopulations in our analysis. It was defined by combining river basin (*i.e.,* Roanoke River Basin) and ecoregion (*i.e.,* upper Piedmont). This metapopulation represents 25 percent of the species' range, which is a small proportion of the Roanoke logperch's range and encompasses a small proportion of the species' overall population. Further, it is not unique in that it shares similar geology, topography, water chemistry, habitat, and climate with another upper Piedmont part of the range, the Dan metapopulation. We conclude that the Roanoke Piedmont is not a significant portion of the range.

In our representation analysis, we note the special nature of the Chowan metapopulation. Intraspecific genetic studies of Roanoke logperch indicate that the Chowan basin houses the most genetically unique population of the species; however, overall levels of intraspecific genetic divergence are relatively minor, such that no major subspecific phylogeographic distinctions (*e.g.,* evolutionarily significant units) are evident. The high estimated resiliency and redundancy of the Chowan metapopulation is particularly important for species-level representation. This evolutionary unit is the most genetically distinctive metapopulation, occurs in the most ecologically distinct environment, and therefore potentially contributes disproportionately to the evolutionary diversity of the species.

Having identified the Chowan as a significant portion of the Roanoke logperch's range, we then focused our analysis on whether this portion of the species' range may meet the Act's definition of an endangered species or a threatened species. We considered whether the threats to, or their effects on, the species are greater in this portion of the species' range than in other portions such that the species is in danger of extinction now or likely to become so within the foreseeable future in that portion. We examined the following threats: fine-sediment deposition, pollution, dams/barriers, and climate change, including their cumulative effects.

Our analysis indicates that the primary threats are not acting on the Roanoke logperch in the Chowan Basin such that the Chowan metapopulation would have a different status than the species as a whole. The current condition of Roanoke logperch in the Chowan metapopulation consists of a high resiliency MU, indicating that the species has robust population densities, high genetic diversity, plenty of available suitable habitat, and security from risks like pollution events. We project that, in the foreseeable future, Roanoke logperch in the Chowan metapopulation would have a 100 percent probability of persistence regardless of future scenario. Therefore, we conclude that the species is not in danger of extinction or likely to become so within the foreseeable future in the Chowan portion of the range.

We found no biologically meaningful portion of the Roanoke logperch's range where the condition of the species differs from its condition elsewhere in its range such that the status of the species in that portion differs from its status in any other portion of the species' range.

Therefore, we find that the species is not in danger of extinction now or likely to become so within the foreseeable future in any significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d. 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014), including the definition of ''significant'' that those court decisions held to be invalid.

Determination of Status

Our review of the best scientific and commercial data available indicates that the Roanoke logperch does not meet the Act's definition of an endangered species or a threatened species in accordance with sections 3(6), 3(20), and 4(a)(1) of the Act. Therefore, in accordance with our regulations at 50 CFR 424.11(e)(2), we propose to remove the Roanoke logperch from the Federal List of Endangered and Threatened Wildlife.

Effects of This Rule

This proposed rule, if made final, would revise 50 CFR 17.11(h) by removing the Roanoke logperch from the Federal List of Endangered and Threatened Wildlife. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to this species. Federal agencies would no longer be required to consult with the Service under section 7 of the Act in the

event that activities they authorize, fund, or carry out may affect the Roanoke logperch.

There is no critical habitat designated for this species, so there would be no effect to 50 CFR 17.95.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been recovered. Post-delisting monitoring (PDM) refers to activities undertaken to verify that a species delisted due to recovery remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of PDM is to monitor the species to ensure that its status does not deteriorate, and if a decline is detected, to take measures to halt the decline so that proposing it as endangered or threatened is not again needed. If at any time during the monitoring period data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

We will coordinate with other Federal agencies, State resource agencies, interested scientific organizations, and others as appropriate to develop and implement an effective PDM plan for the Roanoke logperch. The PDM plan will build upon current research and effective management practices that have improved the status of the species since listing. Ensuring continued implementation of proven management strategies that have been developed to sustain the species will be a fundamental goal for the PDM plan. The PDM plan will identify measurable management thresholds and responses for detecting and reacting to significant changes in Roanoke logperch numbers, distribution, and persistence. If declines are detected equaling or exceeding these thresholds, the Service, in combination with other PDM participants, will investigate causes of these declines. The investigation will be to determine if the Roanoke logperch warrants expanded monitoring, additional research, additional habitat protection, or resumption of Federal protection under the Act.

We appreciate any information on what should be included in post-delisting monitoring strategies for this species (see Information Requested, above).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

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 Virginia Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Virginia 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.

Proposed Regulation Promulgation

Accordingly, we propose to 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; 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 2. In 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by removing the entry for ''Logperch, Roanoke'' under FISHES.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–06795 Filed 4–1–24; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 89, No. 64
Tuesday, April 2, 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

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 required 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 May 2, 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.* 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.

Farm Service Agency

Title: Emergency Relief Program 2022 (ERP 2022).

OMB Control Number: 0560–0316.

Summary of Collection: Title I of the Disaster Relief Supplemental Appropriations Act, 2023 (Division N of the Consolidated Appropriations Act, 2023; Pub. L. 117–328) provides $3.741715 billion for necessary expenses related losses of revenue, quality, or production of crops (including milk, on-farm stored commodities, crops prevented from planting in 2020 and 2021, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of droughts, wildfires, hurricanes, tornadoes, floods, derechos, excessive heat, winter storms, freeze, including a polar vortex, smoke exposure, quality losses of crops, and excessive moisture occurring in calendar year 2022. FSA is directed by USDA to use part of this funding to provide assistance to eligible crop producers through ERP 2022.

Need and Use of the Information: The information submitted by respondents is used by FSA to determine eligibility and issue payments to eligible applicants under ERP 2022. ERP Track 1 uses a streamlined application process for losses for which data is already on file with FSA and RMA. Producers certify on the application that the loss was due, in whole or in part, to a qualifying disaster event and indicate that they agree to obtain crop insurance or NAP coverage for the next two available crop years, which is a statutory requirement for payment eligibility. Producers with a Whole Farm Revenue Protection policy or whole-farm unit must also indicate the percentage attributed to specialty crops to implement payment limitation provisions as required by law.

Track 2 assists producers for other eligible crop losses through a revenue-based approach. Track 2 applicants complete an application form to indicate their benchmark and disaster year revenue, and percentage from specialty crops. Track 2 producers must also submit FSA–525, Crop Insurance and/or NAP Coverage Agreement, to certify that they will purchase federal crop insurance or NAP coverage as required by law. FSA is also providing optional worksheets (FSA–525–A and FSA–525–B) that Track 2 applicants can use to assist in calculating their benchmark and disaster year revenue. Using a revenue-based approach also reflects losses of production and quality of crops without requiring the more extensive calculations and documentation required under some previous programs addressing individual crop losses due to disaster events. Using a decrease in gross revenue in the calculation of Track 2 payments also captures a producer's loss due to a qualifying disaster event regardless of whether the loss occurs before harvest or after harvest while the crop is in storage, further streamlining the delivery of assistance.

Producers may also need to submit additional forms if not already on file with FSA, including forms to establish their eligibility for a higher payment limitation or payment rate, if applicable.

Description of Respondents: Farms.

Number of Respondents: 230,000.

Frequency of Responses: Reporting; Other (one-time).

Total Burden Hours: 100,072.

Rachelle Ragland-Greene,

Acting Departmental Information Collection Clearance Officer.

[FR Doc. 2024–06971 Filed 4–1–24; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0087]

Addition of Kosovo and Mozambique to the List of Regions Affected With Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have added Kosovo and Mozambique to the list of regions that the Animal and Plant Health Inspection Service considers to be affected by highly pathogenic avian influenza (HPAI). These actions follow our imposition of HPAI-related restrictions on avian commodities originating from or transiting Kosovo or Mozambique, as a result of the confirmation of HPAI in these countries.

DATES: Kosovo and Mozambique were added to the list of regions APHIS considers to be affected with HPAI,

effective respectively on September 29, 2023, and October 20, 2023.

FOR FURTHER INFORMATION CONTACT: For the Kosovo listing, contact Dr. Heather Sriranganathan, APHIS Veterinary Services, Regionalization Evaluation Services, 4700 River Road, Riverdale, MD 20737; phone (717) 818–3582; email: *AskRegionalization@usda.gov*.

For the Mozambique listing, contact Dr. La'Toya Lane, APHIS Veterinary Services, Regionalization Evaluation Services, 920 Main Campus Drive, Suite 300, Raleigh, NC 27606; phone: (301) 550–1671; email: *AskRegionalization@usda.gov*.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States to prevent the introduction of various animal diseases, including Newcastle disease and highly pathogenic avian influenza (HPAI). The regulations prohibit or restrict the importation of live poultry, poultry meat, and other poultry products from regions where these diseases are considered to exist.

Section 94.6 of the regulations contains requirements governing the importation into the United States of carcasses, meat, parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions of the world where HPAI exists or is reasonably believed to exist. HPAI is an extremely infectious and potentially fatal form of avian influenza in birds and poultry that, once established, can spread rapidly from flock to flock. The Animal and Plant Health Inspection Service (APHIS) maintains a list of restricted regions it considers affected with HPAI of any subtype on the APHIS website at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions*.

APHIS receives notice of HPAI outbreaks from veterinary officials of the exporting country, from the World Organization for Animal Health (WOAH),[1] or from other sources the Administrator determines to be reliable.

On August 21, 2023, APHIS became aware of a European Food Safety Authority document reporting outbreaks of HPAI in Kosovo in 2022. On September 25, 2023, the Kosovo Food and Veterinary Authority confirmed the detection of HPAI in 2021 and 2022. In response to these reports, on September 29, 2023, APHIS added Kosovo to the list of regions where HPAI exists or is considered to exist, in compliance with § 94.6(a)(2)(ii). On that same date, APHIS issued an import alert notifying stakeholders that APHIS imposed restrictions on the importation of poultry, commercial birds, ratites, avian hatching eggs, unprocessed avian products and byproducts, and certain fresh poultry commodities originating from or transiting Kosovo to mitigate risk of HPAI introduction in the United States.

On October 17, 2023, the veterinary authorities of Mozambique reported to the WOAH the occurrence of HPAI in that country. In response to that report, on October 20, 2023, after confirming that HPAI occurred in commercial birds and poultry, APHIS added Mozambique to the list of regions where HPAI exists or is considered to exist, in compliance with § 94.6(a)(2)(ii). On that same day, APHIS issued an import alert notifying stakeholders that APHIS imposed restrictions on the importation of poultry, commercial birds, ratites, avian hatching eggs, unprocessed avian products and byproducts, and certain fresh poultry commodities originating from or transiting Mozambique to mitigate risk of HPAI introduction into the United States.

With the publication of this notice, we are informing the public that we have added Kosovo to the list of regions APHIS considers affected with HPAI of any subtype, effective September 29, 2023; and Mozambique to the list of regions APHIS considers affected with HPAI of any subtype, effective October 20, 2023. This notice serves as an official record and public notification of these actions.

Authority: 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 26th day of March 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–06942 Filed 4–1–24; 8:45 am]

BILLING CODE 3410–34–P

[1] The World Organization for Animal Health internationally follows a British English spelling of ''organisation'' in its name; also, it was formerly the Office International des Epizooties, or OIE, but on May 28, 2022, the Organization announced that the acronym was changed from OIE to WOAH.

DEPARTMENT OF COMMERCE

[Docket No. 240326–0089]

Indo-Pacific Economic Framework for Prosperity Clean Economy Investor Forum Solicitation of Applications for Participation

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of withdrawal; reissuance of request for applications.

SUMMARY: The International Trade Administration (ITA) seeks applications for the Department to consider recommending to the Government of Singapore (Singapore) for participation in the Indo-Pacific Economic Framework for Prosperity (IPEF) Clean Economy Investor Forum (Forum) hosted by Singapore on June 5–6, 2024. The Forum was announced on November 16, 2023, in the Joint Statement following an IPEF Ministerial meeting. The Forum participants will help advance the climate objectives of the proposed IPEF Clean Economy Agreement by helping facilitate investments in climate-related projects in the Indo-Pacific region. ITA is seeking applications from the U.S. private sector for ITA to consider recommending to Singapore. This notice withdraws and supersedes a notice and request for applications published March 28, 2024.

DATES: The IPEF Clean Economy Investor Forum will take place on Thursday and Friday, June 5–6, 2024.

Applications for participation should be submitted by 5 p.m. EST on April 16, 2024. Applications submitted in response to the notice published March 28, 2024 need not be resubmitted.

ADDRESSES: Interested companies should submit their applications for immediate consideration to ITA at *IPEFInvestorForum@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ava Jamerson, Policy Advisor, Office of the Under Secretary of Commerce for International Trade, 1401 Constitution Avenue NW, Washington, DC 20230; email: *ava.jamerson@trade.gov;* telephone: 202.823.0686. For additional information about IPEF, please visit: *https://www.commerce.gov/ipef.* You can find the latest information about the Clean Economy Pillar at: *https://www.commerce.gov/ipef/pillar-iii* and at *https://www.commerce.gov/sites/default/files/2023-11/US-Factsheet-SF-Pillar-III.pdf.*

SUPPLEMENTARY INFORMATION:

I. Background

This notice withdraws a notice published on March 28, 2024 (89 FR 21488) and reissues, with corrected information, a request for applications to be considered for participation in the Indo-Pacific Economic Framework for Prosperity Clean Economy Investor Forum.

In May 2022, the United States launched the Indo-Pacific Economic Framework for Prosperity. IPEF is part of the Biden Administration's commitment to strengthening ties with allies and partners and tackling 21st Century economic challenges in the Indo-Pacific region.

IPEF seeks to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for the 14 IPEF partner economies—Australia, Brunei Darussalam, Fiji, India, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, the United States, and Vietnam. IPEF also will provide tangible benefits that fuel economic activity and investment, promote sustainable and inclusive economic growth, and benefit workers and consumers across the region.

The IPEF partners are launching the inaugural IPEF Clean Economy Investor Forum to catalyze investment for sustainable infrastructure and climate technology across IPEF economies to advance the goals of the proposed Clean Economy Agreement, which includes increasing investment flows and financing for climate-related infrastructure, technologies, and projects in the region. The proposed Clean Economy Agreement outlines collaboration through a convening of private and institutional investors to facilitate business matching and investments, as well as sharing expertise and good practices on scaling up clean technology and infrastructure investments.

The Forum is being hosted by Singapore on June 5–6, 2024, and will be attended by the Secretary of Commerce and her counterparts from the 13 other IPEF partner countries. Its purpose is to convene a diverse set of stakeholders from across the United States and the Indo-Pacific region to gain market insights, make industry and government contacts, solidify business strategies, and identify funding for specific projects to advance the goals of the proposed Clean Economy Agreement.

The Forum will focus on the markets of the 14 partner economies that are actively engaging in the proposed Clean Economy Agreement, with a particular focus on emerging economies. The scope of climate issues in which the Forum seeks to facilitate trade and investment will be informed by issues covered in the proposed Clean Economy Agreement, including efforts towards energy security and transition, climate resilience and adaptation, and greenhouse gas emissions mitigation.

Each country will be asked to put forward individual representatives from their countries' private sectors to participate in the Forum for consideration by Singapore. Singapore will ultimately select who to invite to the Forum. The International Trade Administration seeks applications from the U.S. private sector to be recommended as participants in the Forum, including but not limited to investors, companies, and non-profit organizations.

II. Criteria

Singapore expects to invite approximately 20–50 participants from the U.S. private sector, at its discretion. ITA is seeking applications from the U.S. private sector, which it will consider based on the below criteria. Through this process, ITA will prepare recommendations for final approval by the Department and then share with Singapore for Singapore's consideration and decision. ITA is primarily focused on senior executives from organizations including investors, companies, and non-profit organizations.

Interested companies should submit their applications for immediate consideration to ITA according to the instructions in the **DATES** and **ADDRESSES** headings above. The following criteria will be used to identify prospective participants. These participants will be considered through a holistic analysis and are not required to meet each element listed below:

(1) Level of executive representation;

(2) Consistency of the applicant's goals and objectives with the stated scope of the Forum;

(3) Alignment with the proposed Clean Economy Agreement objectives;

(4) Focus on IPEF markets, such as experience or demonstrated interest in investing in the region in the next 18 months in one or more IPEF markets;

(5) Ability to fulfill and support the objectives of the Forum (*e.g.,* significant funds and/or assets to support the types of projects envisioned); and

(6) Headquarters in the United States.

The Department may consider other information as it deems relevant and may request additional information/clarification from applicants. The Department will consider applications previously submitted in response to the withdrawn notice and request for applications published on March 28, 2024 (89 FR 21488); applicants need not resubmit information.

Please do not send company or organization brochures.

Applications received after April 16, 2024 will be considered only if space and scheduling constraints permit and if Singapore continues to accept recommendations.

Applicants selected to be recommended to Singapore will be notified.

III. Request for Applications

To be considered, all applications should include the following information, as applicable:

(1) Organization Name;

(2) U.S. State of Incorporation;

(3) Corporate Headquarters;

(4) Principal Place of Business;

(5) Main Address (Street Address, City, State, and Zip Code);

(6) List of Subsidiary or Affiliate Offices in Asia;

(7) Industry Area(s);

(8) Main Products and/or Services;

(9) A brief (up to three page) Statement of Interest explaining how you meet the selection criteria listed above;

(10) Name, title, work email, phone number of your Chief Executive Officer, President, Chief Investment Officer, or other senior executive who would represent the organization at the Forum;

(11) Name, title, work email, and phone number of the main working-level point of contact that will facilitate the senior executive's participation in the Forum; and

(12) Name, title, work email, and phone number of one optional accompanying staff person.

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0625–0143. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately 1.5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection.

All responses to this information collection are voluntary. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to the International Trade Administration Paperwork Reduction Act Program: *pra@trade.gov* or to Katelynn Byers, ITA PRA Process Administrator: *Katelynn.Byers@trade.gov.*

Privacy Act Statement

The collection, maintenance, and disclosure of this information is governed by the Privacy Act of 1974 (5 U.S.C. 552a). The Department of Commerce is authorized to collect this information pursuant to authorities that include but are not limited to: 15 U.S.C. 1512. The principal purposes for which the Department will use the information is to assist in selecting the U.S. representatives to recommend to Singapore to participate in the Forum. Information received will be maintained in COMMERCE/DEPT–23, Information Collected Electronically in Connection with Department of Commerce Activities and Programs. One of the routine uses for this information includes providing it to other registrants, including the Government of Singapore, to facilitate company/organization matchmaking (Routine Use 1). A complete set of routine disclosures is included in the system of records notice, published both in the **Federal Register** and on the Department's website at: *https://www.commerce.gov/opog/privacy/system-records-notice.* Disclosing this information to the Department of Commerce is voluntary. However, if you do not provide this information, or only provide part of the information requested, you may not be considered for selection as U.S. representatives to the Forum.

Authority: 15 U.S.C. 1512.

Dated: March 28, 2024.

Diane Farrell,

Deputy Under Secretary for International Trade.

[FR Doc. 2024–07003 Filed 3–29–24; 11:15 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–24–2024]

Approval of Subzone Expansion; Givaudan Fragrances Corporation; Mount Olive, New Jersey

On February 7, 2024, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the State of New Jersey, Department of State, grantee of FTZ 44, requesting an expansion of Subzone 44P on behalf of Givaudan Fragrances Corporation in Mount Olive, New Jersey, subject to the existing activation limit of FTZ 44. The application has also requested the removal of 5.93 acres from Site 1 of FTZ 44.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (89 FR 10030, February 13, 2024). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to expand Subzone 44P was approved on March 28, 2024, subject to the FTZ Act and the Board's regulations, including section 400.13, and further subject to FTZ 44's 407.5-acre activation limit.

Dated: March 28, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–06954 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–331–806]

Frozen Warmwater Shrimp From Ecuador: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With the Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of frozen warmwater shrimp (shrimp) from Ecuador. The period of investigation (POI) is January 1, 2022, through December 31, 2022. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Reginald Anadio or Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3166 or (202) 482–5377, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On November 21, 2023, Commerce published in the **Federal Register** the notice of initiation of this investigation.[1] On December 7, 2023, Commerce postponed the preliminary determination until March 25, 2024.[2]

For a complete description of events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Investigation

The product covered by this investigation is shrimp from Ecuador. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] No interested party commented on the scope of the investigation as it appeared in the *Initiation Notice.*

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each subsidy

[1] *See Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam: Initiation of Countervailing Duty Investigations,* 88 FR 81053 (November 21, 2023) (*Initiation Notice*).

[2] *See Frozen Warmwater Shrimp from Ecuador, India, Indonesia, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Countervailing Duty Investigations,* 88 FR 85216 (December 7, 2023).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination of the Countervailing Duty Investigation of frozen warmwater shrimp from Ecuador,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 88 FR at 81054.

program found to be countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determinations in the companion antidumping duty (AD) investigations of shrimp from Ecuador and Indonesia, based on a request made by the petitioner.[7] Consequently, the final CVD determination will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than August 5, 2024, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated total net subsidy rates for Industrial Pesquera Santa Priscila S.A. (Santa Priscila) and Sociedad Nacional de Galapagos C.A. (SONGA) that are not zero, *de minimis,* or based entirely on the facts otherwise available. Because Commerce calculated individual estimated countervailable subsidy rates for Santa Priscila and SONGA that are not zero, *de minimis,* or based entirely on the facts otherwise available, we have preliminarily calculated the all-others rate using a simple average of the individual estimated subsidy rates calculated for the examined respondents.[8]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Industrial Pesquera Santa Priscila S.A.[9]	13.41
Sociedad Nacional de Galapagos C.A.[10]	1.69
All Others	7.55

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of the publication of this notice, in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[11] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[12]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[13] 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 in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[14]

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

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* Petitioner's Letter, ''Request to Alignment,'' dated February 22, 2024. The petitioner is the American Shrimp Processors Association.

[8] When two respondents are under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's proprietary U.S. sale quantities for the merchandise under consideration; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). We currently do not have on the record the necessary publicly-ranged sales data to conduct the rate comparison discussed above. Therefore, for purposes of the preliminary determination, we calculated the all-others rate as the simple average of the total net subsidy rates calculated for the two mandatory respondents. We will solicit the necessary publicly-ranged sales data after the issuance of the preliminary determination.

[9] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily determines Industrial Pesquera Santa Priscila S.A. is cross-owned with Manesil S.A., Produmar S.A., Tropack S.A., and Egidiosa S.A.

[10] As discussed in the Preliminary Decision Memorandum, Commerce preliminarily determines Sociedad Nacional de Galapagos C.A. is cross-owned with Naturisa S.A., Holding Sola & Sola Solacciones S.A., and Empacadora Champmar S.A.

[11] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[12] *See* 19 351.309(c)(2) and (d)(2).

[13] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[14] *See APO and Service Final Rule.*

Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.[15] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

U.S. International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of aluminum extrusions from Indonesia are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

Dated: March 25, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation includes certain frozen warmwater shrimp and prawns whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form. ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

The frozen warmwater shrimp and prawn products included in the scope, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (Penaeus vannemei), banana prawn (Penaeus merguiensis), fleshy prawn (Penaeus chinensis), giant river prawn (Macrobrachium rosenbergii), giant tiger prawn (Penaeus monodon), redspotted shrimp (Penaeus brasiliensis), southern brown shrimp (Penaeus subtilis), southern pink shrimp (Penaeus notialis), southern rough shrimp (Trachypenaeus curvirostris), southern white shrimp (Penaeus schmitti), blue shrimp (Penaeus stylirostris), western white shrimp (Penaeus occidentalis), and Indian white prawn (Penaeus indicus).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope.

Excluded from the scope are: (1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.36.0020 and 0306.36.0040); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) that is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the nonshrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the scope are currently classified under the following HTSUS subheadings: 0306.17.0004, 0306.17.0005, 0306.17.0007, 0306.17.0008, 0306.17.0010, 0306.17.0011, 0306.17.0013, 0306.17.0014, 0306.17.0016, 0306.17.0017, 0306.17.0019, 0306.17.0020, 0306.17.0022, 0306.17.0023, 0306.17.0025, 0306.17.0026, 0306.17.0028, 0306.17.0029, 0306.17.0041, 0306.17.0042, 1605.21.1030, and 1605.29.1010. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope is dispositive.

Appendix II

[FR Doc. 2024–06949 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–DS–P

[15] *See* 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–831]

Antidumping Duty Order on Prestressed Concrete Steel Wire Strand From Mexico: Preliminary Affirmative Determination of Circumvention

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of certain high carbon steel (HCS) wire that are produced in Mexico and assembled or completed into prestressed concrete steel wire strand (PC strand) in the United States are circumventing the antidumping duty (AD) order on PC strand from Mexico. As a result, all imports of certain HCS wire from Mexico will be subject to suspension of liquidation on or after July 31, 2023. Commerce is also imposing a certification requirement. We invite interested parties to comment on this preliminary determination.

DATES: Applicable April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Jonathan Schueler, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2429 or (202) 482–9175, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 2004, Commerce published in the **Federal Register** the AD order on U.S. imports of PC strand from Mexico.[1] On July 31, 2023, pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(d)(1), Commerce initiated a country-wide circumvention inquiry to determine whether imports of HCS wire from Mexico that are assembled or completed into PC strand in the United States are circumventing the *Order* and, accordingly, should be covered by the scope of the *Order*.[2] On

[1] *See Notice of Antidumping Duty Order: Prestressed Concrete Steel Wire Strand from Mexico,* 69 FR 4112 (January 28, 2004) (*Order*).

[2] *See Prestressed Concrete Steel Wire Strand from Mexico: Initiation of Circumvention Inquiry on the*

September 25, 2023, Commerce selected Deacero S.A.P.I. de CV (Deacero) and Aceros Camesa S.A. de C.V. (Camesa), Mexican producers of HCS wire, as the mandatory respondents in this circumvention inquiry.[3]

On December 14, 2023, Commerce extended the deadline for issuing the preliminary determination in this circumvention inquiry until March 27, 2023.[4] For a complete description of the events that followed the initiation of this circumvention inquiry, *see* the Preliminary Decision Memorandum.[5] The topics included in the Preliminary Decision Memorandum are identified 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*.

Scope of the Order

The merchandise covered by this *Order* is PC strand. Merchandise covered by the *Order* is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheading and are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive. For a full description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers certain HCS wire imported from Mexico. The HCS wire has a high carbon content (*i.e.,* 0.60–0.85 percent),[6] is not heat treated, and has a diameter less than 4.50 millimeters. The HCS wire is assembled or completed in the United States by stranding the HCS wire to produce PC strand of the type that would be subject to the *Order* (inquiry merchandise).

The inquiry merchandise is currently classifiable under HTSUS subheading 7217.10.8090. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Importers of the subject HCS wire that will not be converted into PC strand in the United States may certify that the HCS wire will not be further processed into subject merchandise covered by the scope of the *Order*. Failure to comply with the requisite certification requirement may result in the merchandise being found subject to AD duties.

Methodology

Commerce made this preliminary circumvention determination in accordance with section 781(a) of the Act and 19 CFR 351.226. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Circumvention Determination

We preliminarily determine that PC strand, assembled or completed in the United States using Mexican-origin HCS wire produced by Deacero, is circumventing the *Order*. We also preliminarily determine that Mexican-origin HCS wire produced by Camesa is not assembled or completed into PC strand in the United States, and therefore, is not circumventing the *Order*.

As detailed in the Preliminary Decision Memorandum, we also preliminarily determine that U.S. imports of inquiry merchandise exported from Mexico are circumventing the *Order* on a country-wide basis. As a result, we preliminarily determine that this merchandise is covered by the *Order*.

See the ''Suspension of Liquidation'' section below for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certification'' and ''Certification Requirements'' sections below for details regarding the use of certifications.

Suspension of Liquidation

Based on the preliminary affirmative country-wide determination of circumvention, 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 HCS wire that are produced in Mexico and assembled or completed into PC strand in the United States, that were entered, or withdrawn from warehouse, for consumption on or after July 31, 2023, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.[7]

For exporters of the HCS wire that have a company-specific cash deposit rate under the *Order,* the cash deposit rate will be the company-specific AD cash deposit rate established for that company in the most recently completed segment of the PC strand from Mexico proceeding.

If the exporter of the HCS wire from Mexico does not have a company-specific cash deposit rate, the AD cash deposit rate will be the ''all-others'' rate (62.78 percent).[8] The suspension of liquidation will remain in effect until further notice.

Certified Entries

Entries for which the importer has met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD duties.

Certification

In order to administer the preliminary country-wide and company-specific affirmative determinations of circumvention for Mexico, Commerce has established importer certifications. These certifications will permit importers to establish that specific entries of HCS wire from Mexico are not subject to suspension of liquidation or

Antidumping Duty Order, 88 FR 49438 (July 31, 2023) (*Initiation Notice*). We note that in the *Initiation Notice,* we stated that we are initiating this circumvention inquiry pursuant to 19 CFR 351.226(d)(1)(ii). However, this section was amended after the *Initiation Notice* was published, therefore we reference the latest version of the regulation. *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67078 (September 29, 2023).

[3] *See* Memorandum, ''Respondent Selection,'' dated September 25, 2023.

[4] *See* Memorandum, ''Extension of Preliminary Determination,'' dated December 14, 2023.

[5] *See* Memorandum, ''Prestressed Concrete Steel Wire Strand (PC Strand) from Mexico: Preliminary Decision Memorandum for the Circumvention Inquiry with Respect to High Carbon Steel Wire Completed into PC Strand in the United States,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] We have revised the scope of the inquiry merchandise from that stated in the *Initiation Notice* to lower the required level of carbon content from 0.78 percent to 0.60 percent to align with the definition of HCS wire as specified by the HTSUS subheading for high carbon steel wire (*i.e.,* 7217.10.8090) because record evidence indicates that certain merchandise being used to produce PC strand does not fall within the parameters of the inquiry merchandise as initiated, *see* Preliminary Decision Memorandum for further details. We invite interested parties to comment on this revised scope of the merchandise subject to the circumvention inquiry in their case briefs.

[7] *See Initiation Notice,* 88 FR at 49438.

[8] *See Order.*

the collection of cash deposits pursuant to this preliminary country-wide affirmative determination of circumvention because the merchandise will not be further processed into PC strand covered by the *Order* (*see* Appendix II to this notice).

Importers that claim that an entry of HCS wire is not subject to suspension of liquidation or the collection of cash deposits based on the end-use of such merchandise must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the certification.

Certification Requirements

Importers are required to complete and maintain the applicable importer certification and retain all supporting documentation for the certification. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit the importer's certification to CBP as part of the entry process by uploading it into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to certify on behalf of the importer.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers 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 shipments of HCS wire from Mexico that were entered, or withdrawn from warehouse, for consumption during the period July 31, 2023 (*i.e.,* the date of publication of the initiation of this circumvention inquiry in the **Federal Register**), through the date of publication of this 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 have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.

For unliquidated entries (and entries for which liquidation has not become final) of HCS wire 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 31, 2023 (the date of initiation of this circumvention inquiry) through the date of publication of this 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). 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 has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this preliminary country-wide affirmative determination of circumvention and the *Order,*[9] all unliquidated entries for which these requirements were not met and to require the importer to post applicable AD cash deposits equal to the rates noted above.

Interested parties may comment in their case briefs on these certification requirements, and on the certification language contained in Appendix II to this notice.

Verification

As provided in 19 CFR 351.307, Commerce intends to 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 case briefs, may be submitted no later than five days after the deadline for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these circumvention inquiries must submit: (1) a statement of the issue; and (2) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.

As provided in 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.[11] 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 in 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).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**. Requests should contain: (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 whether any of those individuals is a foreign national; and (3) a list of the issues that the party intends to discuss at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date of the hearing.

U.S. International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, will notify the U.S. International Trade Commission (ITC) of this preliminary determination to

[9] *See Order.*

[10] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069 (September 29, 2023) (*APO and Service Final Rule*).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Final Rule.*

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

This determination is issued and published in accordance with section 781(a) of the Act and 19 CFR 351.226(g)(1).

Dated: March 26, 2024.

Abdelali Elouaradia,

Deputy 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 Circumvention Inquiry
V. Period of the Circumvention Inquiry
VI. Statutory and Regulatory Framework for the Circumvention Inquiry
VII. Statutory Analysis for the Circumvention Inquiry
VIII. Summary of Statutory Analysis
IX. Country-Wide Affirmation Determination of Circumvention and Certification Requirements
X. Recommendation

Appendix II

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject high-carbon steel (HCS) wire produced in Mexico that entered under the entry summary number(s), identified below, and which is covered by this certification. ''Direct personal knowledge'' refers to the facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the exporter's and/or seller's identity and location.

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The imported subject-HCS wire covered by this certification was imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The imported HCS wire covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. Select the appropriate statement below:

a. I have personal knowledge of the facts regarding the end-use of the imported products covered by this certification because my company is the end-user of the imported product covered by this certification and I certify that the imported subject-HCS wire will not be used to produce subject merchandise. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products).

b. I have personal knowledge of the facts regarding the end-use of the imported product because my company is not the end-user of the imported product covered by this certification. However, I have been able to contact the end-user of the imported product and confirm that it will not use this product to produce subject merchandise. The end-user of the imported product is {COMPANY NAME} located at {ADDRESS}. ''Personal knowledge'' includes facts obtained from another party (*e.g.,* correspondence received by the importer from the end-user of the product).

F. The imported subject-HCS wire covered by this certification will not be further processed into prestressed concrete steel wire strand (PC strand) in the United States. (*Note:* For certifications related to entries made on or after the date of publication of the Preliminary Determination, and through 14 days after the date of publication of the Preliminary Determination, the importer should replace ''will not be further processed'' with ''were not further processed'' in the certification, as necessary).

G. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Producer:
Producer's Address:

H. I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, product specification sheets, production records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

I. I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce), upon the request of either agency.

J. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

K. I understand that failure to maintain the required certifications and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are entries of merchandise that is covered by the scope of the antidumping duty order on PC strand from Mexico. I understand that such a finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

L. I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

M. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

N. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2024–06946 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that stainless steel sheet and strip in coils (SSSSC) from the Republic of Korea (Korea) were sold in the United States at less than normal value (NV) during the period of review (POR) is July 1, 2022, through June 30, 2023. Additionally, Commerce is rescinding this administrative review, in part, with respect to certain companies that had no entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Jerry Xiao, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2273.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1999, Commerce published in the **Federal Register** the antidumping duty order on SSSSC from Korea.[1] On July 3, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* for the POR.[2] On September 11, 2023, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order*[3] covering 10 exporters and/or producers.[4] Korinox Co., Ltd. (Korinox) is the sole company subject to the review with entries during the POR.

Scope of the Order

The products subject to the *Order* are certain stainless steel sheet and strip in coils from Korea. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[5]

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily relied entirely upon facts otherwise available with adverse inferences for Korinox.

For a complete description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is attached in the appendix 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 is available at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Rescission of Review, In Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[6] Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate calculated for the review period.[7] Therefore, for an administrative review to be conducted, there must be at least one reviewable, suspended entry that Commerce can instruct CBP to liquidate at the antidumping duty assessment rate calculated for the review period.[8] There were no entries of subject merchandise during the POR for the following companies subject to the review: DK Corporation; Dongbu Steel Co., Ltd.; Dongkuk Steel Mill Co., Ltd.; Hyundai Steel Company; KG Dongbusteel Co., Ltd.; Pohang Iron & Steel Co., Ltd. (POSCO); POSCO International Corp.; Taihan Electric Wire Co., Ltd.; and Topco Global Ltd. As a result, on January 16, 2024, Commerce notified all interested parties of its intent to rescind this review, in part, with respect to these companies and received no comments.[9] Accordingly, Commerce is rescinding this review, in part, with respect to these nine companies. The administrative review remains active with respect to the mandatory respondent, Korinox.

Preliminary Results of Review

Commerce preliminarily determines that the following estimated weighted-average dumping margin exists for the period July 1, 2022, through June 30, 2023:

Producer or exporter	Weighted-average dumping margin (percent)
Korinox Co., Ltd. (Korinox)	58.79

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total adverse facts available to the sole company subject to this this review, in accordance with

[1] *See Notice of Antidumping Duty Order; Stainless Steel Sheet and Strip in Coils from United Kingdom, Taiwan, and South Korea,* 64 FR 40555 (July 27, 1999) (*Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 42693 (July 3, 2023).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 62322 (September 11, 2023) (*Initiation Notice*).

[4] *Id.,* 88 FR at 62326. Although Commerce received a request for review of Inchon Iron & Steel Co., Ltd., Commerce did not include this company in the *Initiation Notice* because, Hyundai Steel Company is the successor-in-interest to INI Steel Company, formerly Inchon Iron and Steel Co., Ltd. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 64 FR 30664, 30688 (June 8, 1999); *see also Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 67 FR 43583 (June 28, 2002); and *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 71 FR 3 7906 (July 3, 2006).

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2022–2023 Administrative Review of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See, e.g., Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022,* 88 FR 24758 (April 24, 2023); *see also Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Recission of Antidumping Administrative Review; 2020–2021,* 88 FR 4157 (January 24, 2023).

[7] *See* 19 CFR 351.212(b)(1).

[8] *See* 19 CFR 351.213(d)(3).

[9] *See* Memorandum, ''Notice of Intent to Rescind Review, in Part,'' dated January 16, 2024.

section 776 of the Act, there are no calculations to disclose.

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice.[10] 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.[11] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[12] 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 review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs. 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 in this review. 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).[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS within 30 days after the date of publication of this notice. If a request for a hearing is made, Commerce intends to hold a hearing at a time and date to be determined.[14] Parties should confirm the date, time, and location of the hearing two days before the scheduled date. All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed using ACCESS.[15] An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Assessment Rates

Upon completion of the final results, Commerce shall determine and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[16]

With respect to the companies for which we have rescinded this review in part, Commerce intends to instruct CBP to assess antidumping duties on all appropriate entries at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(1)(i).

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

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of SSSSC from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Korinox will be equal to the weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by a company not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, but the producer is, then the cash deposit rate will be the company-specific rate established for the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.60 percent, the all-others rate as revised due to a section 129 determination.[17] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised by interested parties in written briefs, within 120 days after the date of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

[10] *See* 19 CFR 351.303 (for general filing requirements).

[11] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[12] *See* 19 CFR 351.309(c)(2) and (d)(2).

[13] *See APO and Service Final Rule.*

[14] *See* 19 CFR 351.310(d).

[15] *See* 19 CFR 351.303.

[16] *See* 19 CFR 351.212(b)(1).

[17] *See Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Revocation of the Antidumping Duty Order on Stainless Steel Plate in Coils from the Republic of Korea; and Partial Revocation of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from the Republic of Korea,* 76 FR 74771 (December 1, 2011).

Dated: March 27, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–06947 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–813]

Citric Acid and Certain Citrate Salts From Belgium: Preliminary Results of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Citribel nv. (Citribel) did not sell subject merchandise in the United States at prices below normal value during the July 1, 2022, through June 30, 2023, period of review (POR). We invite interested parties to comment on these preliminary results.

DATES: Applicable April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4521.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2018, Commerce published the antidumping duty (AD) order on citric acid and certain citrate salts (citric acid) from Belgium in the **Federal Register**.[1] On September 11, 2023, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an AD administrative review of the *Order*.[2] During the course of this administrative review, Citribel responded to Commerce's questionnaire and supplemental questionnaires. For further details, *see* the Preliminary Decision Memorandum.[3]

Scope of the Order

The merchandise covered by this *Order* includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. For a full description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export price has been calculated in accordance with section 772(a) of the Act, and normal value was calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix 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 Results of the Review

Commerce preliminarily determines that the following estimated weighted-average dumping margin exists for the period July 1, 2022, through June 30, 2023:

Exporter/producer	Weighted-average dumping margin (percent)
Citribel nv	0.00

Disclosure and Public Comment

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[5]

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 review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[6] 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 results in this administrative review. 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).[7]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of

[1] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia and Thailand: Antidumping Duty Orders,* 83 FR 35214 (July 25, 2018) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 62332 (September 11, 2023) (*Initiation Notice*).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts from Belgium; 2022–2023,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[7] *See APO and Service Final Rule.*

this notice. Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised in any the written briefs, no later than 120 days after the date of publication of this notice, unless otherwise extended.[8]

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the weighted-average dumping margin for Citribel (*i.e.,* the sole individually-examined respondent in this review) is not zero or *de minimis* (*i.e.,* greater than or equal to 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of dumping calculated for the examined sales made during the POR to each importer and the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). Where an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of the review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[9] If Citribel's weighted-average dumping margin is zero or *de minimis* in the final results of the review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [10]

For entries of subject merchandise during the POR produced by Citribel for which the producer did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company (or companies) involved in the transaction.[11]

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

The following cash deposit requirements will be effective upon publication of the final results of this administrative review 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 Citribel will be equal to the weighted-average dumping margin established in the final results of this administrative 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 reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or in the investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 19.30 percent, the rate established in the less-than-fair-value investigation of this proceeding.[12] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary 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 Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(1).

Dated: March 27, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–06948 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

[9] *See* 19 CFR 351.106(c)(2).

[10] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[11] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[12] *See Order,* 83 FR at 35215.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD840]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Marine Planning Committee (MPC) will hold an online public meeting.

DATES: The online meeting will be held Thursday, April 18, 2024, from 10 a.m. to 4 p.m., Pacific Daylight Time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and directions on how to attend the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the MPC to consider current offshore wind (OSW) energy and aquaculture issues

and to provide information and advice to the Pacific Council for consideration at its June 2024 meeting. Topics will include updates on state and Federal OSW activities, and other OSW or aquaculture topics, as appropriate.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: March 28, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–06944 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Oceanic and Atmospheric Administration (NOAA) Fisheries Greater Atlantic Region Gear Identification Requirements

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing, information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before June 3, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0351 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Laura Deighan, Fishery Management Specialist, 55 Great Republic Drive, Gloucester, MA 01930, 978–281–9184, *laura.deighan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request would extend an approved information collection regarding Greater Atlantic Region fishing gear marking requirements. There are no changes to the gear marking requirements in this collection.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of Commerce (Secretary) is responsible for the conservation and management of marine fishery resources. The Secretary has delegated much of this responsibility to the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS). The Magnuson-Stevens Act gives the Secretary and NOAA certain regulatory authorities to ensure the most beneficial uses of marine fishery resources. One of the regulatory steps taken to carry out the conservation and management objectives is to collect data from users of the resource.

Regulations at 50 CFR 648.84(a),(b), and (d), 648.125(b)(3), 648.144(b)(1), 648.264(a)(5), and 697.21(a) and (b) require Federal permit holders using certain types of fishing gear to mark the gear with information necessary to identify the vessel and gear (*e.g.,* hull identification number, Federal fishing permit number). The regulations also specify gear marking requirements for visibility (*e.g.,* buoys, radar reflectors). These gear marking requirements aid in fishery law enforcement, support safe navigation by increasing gear visibility, and help prevent gear conflicts by providing gear type information to other fisherman.

The number of end lines associated with each string of hooks, pots, or traps determine the quantity of gear in this collection. A single Federal permit holder may be responsible for marking several strings of a given gear type and may use multiple gear types that require marking.

II. Method of Collection

The regulations require Federal permit holders to affix the identifying information to the buoy or another part of the gear. No information is submitted to NMFS as a result of this collection.

III. Data

OMB Control Number: 0648–0351.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection, without change).

Affected Public: Business or other for-profit organization.

Estimated Number of Respondents: 2,283.

Estimated Time per Response: 1 minute per string of gear.

Estimated Total Annual Burden Hours: 9,561.

Estimated Total Annual Cost to Public: $45,660 in recordkeeping/reporting costs.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Legal Authority: Magnuson-Stevens Act. Regulations at 50 CFR 648.84(a), (b), and (d), 648.125(b) (3), 648.144(b) (1), 648.264(a) (5), and 697.21(a) and (b).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–06938 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Mississippi Coastal Management Program; Public Meeting; Request for Comments

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public meeting and opportunity to comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management, will hold a virtual public meeting to solicit input on the performance evaluation of the Mississippi Coastal Management Program. NOAA also invites the public to submit written comments.

DATES: NOAA will hold a virtual public comment meeting on Tuesday, May 21, 2024, at 12 p.m. Central Time (CT). NOAA may close the meeting 15 minutes after the conclusion of public testimony and after responding to any clarifying questions from meeting participants. NOAA will consider all relevant written comments received by Friday, May 31, 2024.

ADDRESSES: Comments may be submitted by one of the following methods:

Virtual Public Meeting: Provide oral comments during the public meeting on Tuesday, May 21, 2024, at 12 p.m. CT by registering as a speaker at *https://forms.gle/CRiA3ngoXUBZCyus8.* We request that those interested in attending register by Tuesday, May 21, 2024, at 10 a.m. CT. Please indicate on the registration form whether you intend to provide oral comments. The lineup of speakers will be based on the date and time of registration. Upon registration, NOAA will send a confirmation email. One hour prior to the start of the virtual meeting on May 21, 2024, NOAA will send an email to all registrants with a link to the public comment meeting and information about participating. While advance registration is requested, registration will remain open until the meeting closes and any participant may provide oral comment after the registered speakers conclude. Meeting registrants may remain anonymous by typing ''Anonymous'' in the ''First Name'' and ''Last Name'' fields on the registration form.

Email: Send written comments to Pam Kylstra, Evaluator, NOAA Office for Coastal Management, at *CZMA.evaluations@noaa.gov.* Include ''Comments on Performance Evaluation of the Mississippi Coastal Management Program'' in the subject line of the message.

NOAA will accept anonymous comments; however, the written comments NOAA receives are considered part of the public record, and the entirety of the comment, including the name of the commenter, email address, attachments, and other supporting materials, will be publicly accessible. Sensitive personally identifiable information, such as account numbers and Social Security numbers, should not be included with the comment. Comments that are not related to the performance evaluation of the Mississippi Coastal Management Program or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: Pam Kylstra, Evaluator, NOAA Office for Coastal Management, by email at *Pam.Kylstra@noaa.gov* or by phone at (843) 439–5568. Copies of the previous evaluation findings, reserve management plan, and reserve site profile may be viewed and downloaded on the internet at *http://coast.noaa.gov/czm/evaluations/.* A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting Pam Kylstra.

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved coastal management programs. The evaluation process includes one or more public meetings, consideration of written public comments, and consultations with interested Federal, State, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the State of Mississippi has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is complete, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the final evaluation findings.

Keelin Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–06885 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; West Coast Region Vessel Identification Requirements

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before June 3, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0355 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Christopher Biegel, Fishery Management Specialist, National Marine Fisheries Service, West Coast Regional Office, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232, (503) 231–6291, *christopher.biegel@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for an extension of an approved information collection. The success of fisheries management programs depends significantly on regulatory compliance. The vessel identification requirement is essential to facilitate enforcement. The ability to link fishing (or other activity) to the vessel owner or operator is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. A vessel's official number is required to be displayed on the port and starboard sides of the deckhouse or hull, and on a weather deck. It identifies each vessel and should be visible at distances at sea and in the air. Law enforcement personnel rely on vessel marking information to assure compliance with fisheries management regulations. Vessels that qualify for particular fisheries are also readily identified, and this allows for more cost-effective enforcement. Cooperating fishermen also use the vessel numbers to report suspicious or non-compliant activities that they observe in unauthorized areas. The identifying number on fishing vessels is used by the National Marine Fisheries Service (NMFS), the United States Coast Guard (USCG), and other marine agencies in issuing regulations, prosecutions, and other enforcement actions necessary to support sustainable fisheries behaviors as intended in regulations. Regulation-compliant fishermen ultimately benefit from these requirements, as unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

II. Method of Collection

Fishing vessel owners physically mark vessels with identification numbers in three locations per vessel.

III. Data

OMB Control Number: 0648–0355.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,125.

Estimated Time per Response: 15 minutes per marking.

Estimated Total Annual Burden Hours: 69 hours.

Estimated Total Annual Cost to Public: $19,106 for materials.

Respondent's Obligation: Mandatory.

Legal Authority: NMFS and the Pacific Fisheries Management Council (Council) manage the groundfish fisheries in the exclusive economic zone seaward of California, Oregon, and Washington under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Council prepared the FMP under the authority of the MSA, 16 U.S.C. 1801 *et seq.* Regulations governing United States fisheries and implementing the FMP appear at 50 CFR parts 660.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–06937 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD849]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The MAFMC will hold a public meeting of its Mackerel, Squid, and Butterfish (MSB) Advisory Panel. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held via webinar on Friday, April 19, 2024, from 9 a.m. to 1 p.m.

ADDRESSES: Webinar connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The main purpose of the meeting is for the Advisory Panel (AP) to create Fishery Performance Reports that include advisor input on specifications and management measures for Atlantic mackerel, chub mackerel, longfin squid, *Illex* squid, and butterfish. A butterfish management track assessment will be used to set 2025–2026 specifications, but the other species are in multi-year specifications so the previously adopted specifications will be reviewed. Public comments will also be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: March 28, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–06945 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD836]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a one-day meeting of its Reef Fish Advisory Panel (AP).

DATES: The meeting will be held Tuesday, April 23, 2024, from 8:30 a.m. to 5 p.m., EDT.

ADDRESSES: The in-person meeting will take place at the Gulf Council office.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday

April 23, 2024; 8:30 a.m.–5 p.m., EDT

The meeting will begin with Introductions of Members and Adoption of Agenda, Approval of Minutes from the October 2023 meeting, review the Scope of Work, and Reef Fish and Individual Fishing Quota (IFQ) Program Landings.

The AP will review SEDAR 74: Research Track Review of Gulf of Mexico *Red Snapper* and SEDAR 85: Gulf of Mexico *Yellowedge Grouper,* along with background materials, presentations and SSC and AP recommendations. The AP will discuss the 2023 Recreational *Red Grouper* and *Gag Grouper* Landings, Reef Fish Amendment 61: Modifications to the *Mid-water Snapper* Complex and Catch Limits, and Ad Hoc Charter for-Hire Data Collection Advisory Panel's January 2024 meeting summary, with presentations and AP recommendations.

Next, the AP will review Reef Fish Amendment 59/60: Modifications to the Individual Fishing Quota Programs in the Gulf of Mexico, including presentations, background materials and AP recommendations; the AP will then receive Public Comment.

Lastly, the AP will discuss any Other Business items.

—Meeting Adjourns

The meeting will be also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the Advisory Panel meeting on the calendar. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: March 28, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–06943 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD844]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Whittier Head of the Bay Cruise Dock Project

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

ACTION: Notice; issuance of renewal incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a renewal IHA to Turnagain Marine Construction (TMC) to incidentally harass marine mammals incidental to the cruise dock construction project in Whittier, Alaska.

DATES: This renewal incidental harassment authorization is valid from April 1, 2024 through March 31, 2025.

ADDRESSES: Electronic copies of the original application, renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous incidental harassment authorization (IHA)), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, 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 promulgated or, if the taking is limited to harassment, an IHA is issued.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in the MMPA and NMFS's implementing regulations (see 16 U.S.C 1362; 50 CFR 216.103).

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-

by-case basis, NMFS may issue a one-time 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).
- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

3. Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.*

History of Request

On March 29, 2023, NMFS issued an IHA to TMC to take marine mammals incidental to the construction of the cruise ship dock in Whittier, Alaska (88 FR 19927, April 4, 2023), effective from April 1, 2023 through March 31, 2024. On November 16, 2023, NMFS received an application for the renewal of that initial IHA. As described in the application for renewal, the activities for which incidental take is requested consist of activities that are covered by the initial authorization but will not be completed prior to its expiration. As required, the applicant also provided a preliminary monitoring report (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-turnagain-marine-constructions-cruise-dock-construction*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. The notice of the proposed renewal IHA was published on March 6, 2024 (89 FR 15977).

Description of the Specified Activities and Anticipated Impacts

TMC's planned cruise ship construction project was planned to cover a 12-month window during which approximately 129 days of pile-installation and -removal activity will occur. This project involved installation and removal of seventy-two 36-inch (in) (0.91-meter (m)) temporary steel pile guides and installation of thirty-six 36-in (0.91-m), sixteen 42-in (1.1-m), and twenty 48-in (1.2-m) permanent steel piles. Three different installation methods were planned to be used including vibratory installation of piles into dense material, impact pile driving to drive piling to tip elevation, and the down-the-hole (DTH) hammer to drill pile into the bedrock. TMC planned to deploy a bubble curtain to the 60-foot (ft) (18.3-m) isobath. This was planned to be used during all activities that fall below the 60-ft (18.3-m) isobath.

Due to unexpected winter weather conditions causing slower construction, TMC will not complete the initial construction during the 1-year period. Specifically, at the time of the renewal request, TMC had completed installation of 51 permanent piles to construct the approach trestle, 2 float restraint dolphins, and most of the mooring trestle. With the remaining time under the initial IHA, TMC anticipates completing at a minimum installation of 10 additional permanent piles.

This renewal request is to cover the subset of the activities covered in the initial IHA that will not be completed during the effective IHA period. TMC plans to complete the remaining construction activities, which would include at maximum installation of four 48-in piles for one mooring dolphin, installation of seven 36-in piles for the remainder of the mooring trestle, and installation and removal of eleven 36-in temporary piles to guide installation of the remaining permanent piles.

The likely or possible impacts of the TMC's planned activity on marine mammals could involve both non-acoustic and acoustic stressors and is unchanged from the impacts described in the initial IHA. Potential non-acoustic stressors could result from the physical presence of the equipment, vessels, and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature. Sounds resulting from pile installation, removal, and drilling may result in the incidental take of marine mammals by Level A and Level B harassment in the form of auditory injury or behavioral harassment.

Detailed Description of the Activity

A detailed description of the construction activities for which take is authorized here may be found in the notices of the proposed and final IHAs for the initial authorization (88 FR 9227, February 13, 2023; 88 FR 19927, April 4, 2023). As previously mentioned, this request is for a subset of the activities considered for the initial IHA that would not be completed prior to its expiration. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notice for the initial IHA. The renewal IHA would be effective from April 1, 2024 through March 31, 2025.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which take is authorized here, including information on abundance, status, distribution, and hearing, may be found in the notice of the proposed IHA for the initial authorization (88 FR 9227, February 13, 2023).

Since the initial IHA was published, NMFS published the final 2022 Alaska and Pacific Stock Assessment Reports (SARs), which describe revised stock structures under the MMPA for humpback whales. In the initial notice of proposed and final IHAs, we explained these proposed changes and

that these changes would be adopted when final. Upon finalization of these revised stock structures, we have made appropriate updates, including attribution of take numbers to stock (see Estimated Take).

The revision to humpback whale stock structure modifies the previously MMPA-designated humpback stocks to align more closely with the ESA-designated distinct population segments (DPSs) (Caretta *et al.,* 2023; Young *et al.,* 2023). Specifically, the three existing North Pacific humpback whale stocks (Central North Pacific and Western North Pacific (WNP) stocks addressed in the Alaska SAR and the California/Oregon/Washington stock addressed in the Pacific SAR) were replaced by five stocks (Western North Pacific, Hawaii, and Mexico-North Pacific stocks addressed in the Alaska SAR and the Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks addressed in the Pacific SAR) (Caretta *et al.,* 2023; Young *et al.,* 2023).

In the initial notice of the proposed and final IHA, NMFS assumed that humpbacks in the action area were from the Central North Pacific Stock, WNP Stock, and CA/OR/WA Stock, and therefor authorized take of humpbacks from these stocks. Based on the revised stock designations, no take of WNP stock whales would occur, and in the renewal IHA humpback whales are now assumed to be members of either the Hawai'i stock or the Mexico-North Pacific stock, which corresponds with the takes previously authorized for the Central North Pacific Stock and CA/OR/WA Stocks, respectively. However, based on the work remaining in the renewal IHA, the takes authorized through this renewal would only be from the Hawai'i stock. In southeast Alaska, it is likely that only 2 percent of humpbacks would be from the Mexico-North Pacific stock, and based on the proportionally reduced take in this renewal, there are no calculated takes of the Mexico-North Pacific stock. Therefor in this renewal IHA, we authorize take only of the Hawai'i stock of humpback whale.

NMFS has reviewed the preliminary monitoring data from the initial IHA, recent draft and final SARs including the updated humpback whale stock structure, and determined that neither this nor any other new information affects which species have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA (88 FR 9227, February 13, 2023).

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the notice of the proposed IHA for the initial authorization (88 FR 9227, February 13, 2023). NMFS has reviewed the monitoring data from the initial IHA, recent draft SARs, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the proposed and final IHAs for the initial authorization (88 FR 9227, February 13, 2023; 88 FR 19927, April 4, 2023). Specifically, days of operation, area or space within which harassment is likely to occur, and marine mammal occurrence data applicable to this authorization remain unchanged from the initial IHA. Similarly, methods of take, daily take estimates and types of take remain unchanged from the initial IHA. The number of takes authorized in this renewal are a subset of the initial authorized takes that better represent the amount of activity left to complete. These takes, which reflect the lower number of remaining days of work, are indicated below in table 1. Takes are calculated using the same methodology as the initial IHA, and are just a proportion of the initial takes based on the days of work remaining.

TABLE 1—AMOUNT OF TAKING, BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK AND PERCENT OF TAKE BY STOCK

Species	Stock	Level A take	Level B take	Percent of stock
Humpback Whale	Hawaii	0	3	<1
	Mexico- North Pacific	0	0	0
	Western North Pacific	0	0	0
Killer Whale	Alaska Resident	0	11	<1
	Gulf of Alaska/Aleutian Islands/Bering Sea Transient.	0	3	<1
Dall's Porpoise	Alaska	4	6	<1
Harbor Seal	Prince William Sound	4	18	<1
Steller Sea Lion	Western United States	0	24	<1

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the FR notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document remains accurate (88 FR 19927, April 4, 2023).

The following mitigation, monitoring, and reporting measures for this renewal:

- The TMC must avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10-m of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions, as necessary to avoid direct physical interaction;
- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant TMC staff prior to the start of all pile driving activity and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized

or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;

- TMC will establish and implement the shutdown zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones typically vary based on the activity type and marine mammal hearing group;
- Monitoring must take place from 30 minutes prior to initiation of construction activity (*i.e.,* pre-start clearance monitoring) through 30 minutes post-completion of construction activity;
- Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead protected species observer (PSO) to determine the shutdown zones clear of marine mammals. Construction may commence when the determination is made;
- If construction is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal;
- TMC must use soft start techniques when impact pile driving. Soft start requires contractors and equipment to slowly approach the work site creating a visual disturbance allowing animals in close proximity to construction activities a chance to leave the area prior to stone resetting or new stone placement. A soft start must be implemented at the start of each day's construction activity and at any time following cessation of activity for a period of 30 minutes or longer;
- The TMC must employ up to four PSOs to monitor the shutdown and Level B harassment zones during pile driving and DTH activities;
- Monitoring will be conducted 30 minutes before, during, and 30 minutes after construction activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from construction activity;
- The TMC must submit a draft report detailing all monitoring within 90 calendar days of the completion of marine mammal monitoring or 60 days prior to the issuance of any subsequent IHA for this project, whichever comes first;
- TMC must conduct hydroacoustic monitoring as specified in the initial IHA and submit a hydroacoustic monitoring report;
- The TMC must prepare and submit final report within 30 days following resolution of comments on the draft report from NMFS;
- The TMC must submit all PSO datasheets and/or raw sighting data (in a separate file from the Final Report referenced immediately above); and
- The TMC must report injured or dead marine mammals.

Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to TMC was published in the **Federal Register** on March 6, 2024 (89 FR 15977). That notice either described, or referenced descriptions of, the TMC's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received no public comments.

Determinations

The renewal request consists of a subset of activities analyzed through the initial authorization described above. In analyzing the effects of the activities for the initial IHA, NMFS determined that TMC's activities would have a negligible impact on the affected species or stocks and that authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.,* less than one-third the abundance of all stocks). The mitigation measures and monitoring and reporting requirements as described above are identical to the initial IHA.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) TMC activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action; and (5) appropriate monitoring and reporting requirements are included.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an IHA renewal) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

Endangered Species Act

The NMFS Alaska Regional Office issued a Biological Opinion under section 7 of the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) on the issuance of an IHA and potential renewal IHA to TMC under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of ESA-listed humpback whales or Steller sea lions.

Renewal

NMFS has issued a renewal IHA to TMC for the take of marine mammals incidental to conducting the cruise ship dock construction in Whittier, Alaska, from April 1, 2024 through March 31, 2025.

Dated: March 28, 2024.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–06968 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD822]

Marine Mammals and Endangered Species; File No. 27830

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Gregory Lewbart, VMD, North Carolina State University, College of Veterinary Medicine, 1060 William Moore Drive, Raleigh, NC 27607, has applied in due form for a permit to import and export marine mammal and protected species parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before May 2, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 27830 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 27830 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to import parts of Galápagos sea lions (*Zalophus wollebaeki*) and Galápagos fur seals (*Arctocephalus galapagoensis*) collected in Ecuador to the North Carolina State University, College of Veterinarian Medicine or ZooQuatic Labs, Baltimore, Maryland. Samples will obtained from live animals during health assessments or from dead salvaged animals, including those impacted by boats or fishing equipment. In addition, samples may be exported for additional analyses. The objective of the research is to assess each population's health by analyzing samples collected from up to 50 live and 100 dead animals of each species, annually. The permit would be valid for 5 years from the date of issuance

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 27, 2024.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–06862 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; West Coast Region, Gear Identification Requirements

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before June 3, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0352 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Christopher Biegel, Fishery Management Specialist, National Marine Fisheries Service, West Coast Regional Office, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232, (503) 231–6291, *christopher.biegel@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection. The success of fisheries management programs depends significantly on regulatory compliance. The requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner or operator is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The regulations specify that fishing gear must be marked with the vessel's official number, Federal permit or tag number, or some other specified form of identification. The regulations further specify how the gear is to be marked (*e.g.,* location and color).

Law enforcement personnel rely on gear marking information to assure compliance with fisheries management regulations. Gear that is not properly identified is confiscated. Gear violations are more readily prosecuted when the gear is marked, and this allows for more cost-effective enforcement. Gear marking helps ensure that a vessel harvests fish only from its own traps/pots/other gear and that fishing gear are not illegally placed. Cooperating fishermen also use the gear marking numbers to report suspicious or non-compliant activities that they observe, and to report placement or occurrence of gear in unauthorized areas. The

identifying number on fishing gear is used by the National Marine Fisheries Service (NMFS), the United States Coast Guard (USCG), and other marine agencies in issuing regulations, prosecutions, and other enforcement actions necessary to support sustainable fisheries behaviors as intended in regulations. Regulation-compliant fishermen ultimately benefit from these requirements, as unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

II. Method of Collection

The physical marking of fishing buoys is done by fishermen in the Pacific Coast Groundfish Fishery according to regulation.

III. Data

OMB Control Number: 0648–0352.
Form Number(s): None.
Type of Review: Regular submission (extension of a current information collection).
Affected Public: Business or other for-profit organizations.
Estimated Number of Respondents: 1,125.
Estimated Time per Response: 15 minutes.
Estimated Total Annual Burden Hours: 574 hours.
Estimated Total Annual Cost to Public: $11,351.60 for materials.
Respondent's Obligation: Mandatory.
Legal Authority: NMFS and the Pacific Fisheries Management Council (Council) manage the groundfish fisheries in the exclusive economic zone seaward of California, Oregon, and Washington under the Pacific Coast Groundfish Fishery Management Plan (FMP). The Council prepared the FMP under the authority of the MSA, 16 U.S.C. 1801 *et seq.* Regulations governing United States fisheries and implementing the FMP appear at 50 CFR parts 660.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–06903 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD838]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Skagway Ore Terminal Redevelopment Project in Skagway, Alaska

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

ACTION: Notice; proposed modification of an incidental harassment authorization; request for comments.

SUMMARY: On February 5, 2024, NMFS received a request from the Municipality of Skagway (MOS) to modify an incidental harassment authorization (IHA) that was issued to MOS on August 29, 2023 to take small numbers of eight species of marine mammals, by Level A and Level B harassment, incidental to the Skagway Ore Terminal redevelopment project. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to modify the IHA. This modification includes changes to the amount of authorized take by Level B harassment for Steller sea lions and the addition of take by Level A and Level B harassment for the northern fur seal (*Callorhinus ursinus*). There are no changes to the activity, mitigation and monitoring, NMFS' findings, the effective dates of the issued IHA, or any other aspect of the IHA. NMFS will consider public comments prior to making any final decision on the requested modification of the authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than April 17, 2024.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to *ITP.harlacher@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, 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 such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed modification of the IHA continues to qualify to be categorically excluded from further NEPA review. We will review all comments submitted in response to this notice of modification prior to concluding our NEPA process or making a final decision on the request.

History of Request

On August 9, 2022, MOS submitted a request to NMFS requesting an IHA for the take of small numbers of seven species of marine mammals incidental to the Ore Terminal redevelopment project in Skagway, Alaska. On April 18, 2023, NMFS published a **Federal Register** notice (88 FR 23627) for the proposed IHA. On August 29, 2023, NMFS issued an IHA to MOS, and on September 5, 2023, NMFS published a **Federal Register** notice (88 FR 60652) announcing the issuance of the IHA, which is valid from October 1, 2023 through September 30, 2024.

On February 5, 2024, NMFS received a request from MOS to modify the 2023 IHA. MOS subsequently submitted multiple revised IHA modification requests and submitted a final version on March 15, 2024, which NMFS determined to be adequate and complete. In the original IHA issued to MOS, NMFS authorized 2 takes by Level A harassment and 196 takes by Level B harassment for Steller sea lion, and no take by Level A or Level B harassment for northern fur seals.

MOS intended for all work to be conducted from October through March; thus, the species densities, and therefore take requests, proposed in the original request were focused on fall and winter months. However, due to construction delays, construction will not be completed by March 31, 2024, making the original densities inaccurate for the entirety of the construction window, which is now proposed to extend into the spring and summer months as well. Additionally, in the initial review of species likely to be found in the action area, northern fur seal was determined unlikely to be found here. This species has not been previously documented in Skagway and was not expected to appear in the project area; therefore, no take was originally requested. However, a northern fur seal yearling was observed by a Protected Species Observer (PSO) near the project site on multiple occasions in January 2024, causing project shutdowns and delays.

Therefore, the MOS is requesting a modification to the issued authorization to add 2 takes by Level A harassment and 45 takes by Level B harassment for northern fur seal, and to adjust take requests based on average species densities throughout the year due to work occurring in all seasons and, consequently, increasing authorized take by Level B harassment to 270 for Steller sea lion.

Description of the Proposed Activity and Anticipated Impacts

The modified IHA would include the same construction activities (impact pile driving and vibratory pile driving and removal) in the same locations that were described in the proposed notice of the 2023 IHA (88 FR 23627, April 18, 2023). The monitoring and reporting measures remain the same as prescribed in the initial IHA. Please see the additional relevant documents related to the issuance of the initial IHA, including MOS' application and the notice of issuance of the IHA (88 FR 60652, September 5, 2023) (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-municipality-skagways-skagway-ore-terminal-redevelopment*) for more detailed description of the project activities.

Detailed Description of the Action

A detailed description of the construction activities can be found in the aforementioned documents associated with the issuance of the initial IHA. The location and general nature of the activities are identical to those described in the previous documents. However, as stated in the History of Request section, MOS will not complete construction during their planned work window. MOS plans to continue construction past their original construction timeline and work into spring and summer. As of February 7, 2023, MOS conservatively estimates that there are 128 days of construction left. Detailed pile removal and installation quantities left can be found in table 1 and table 2.

TABLE 1—REMAINING PILE REMOVAL QUANTITIES

Pile type and size (inches (in))	Quantity remaining
Timber Piles	267
Steel (14-in)	12
Steel (16-in)	51
Steel (24-in)	12
Steel (28-in)	26
Temporary piles (24-in or smaller)	18

TABLE 2—REMAINING INSTALLATION QUANTITIES

Pile type and size (in)	Quantity remaining
Steel (24-in)	162
Steel (36-in)	21
Steel (48-in)	6
Temporary piles (24-in or smaller)	18

Description of Marine Mammals

A description of the marine mammals in the area of the activities can be found in these previous documents, which remains applicable to this modified IHA as well. In addition, NMFS has reviewed the draft 2023 Stock Assessment Reports (Young *et al.,* 2023; available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*), information on relevant Unusual Mortality Events, and recent scientific literature, and incorporated that into table 3 below.

Table 3 lists all species or stocks for which take is expected and authorized to be authorized for this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of

animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' Alaska Marine Mammal SARs. All values presented in table 3 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.*

TABLE 3—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N)[1]	Stock abundance (CV, N_{min}, most recent abundance survey)[2]	PBR	Annual M/SI[3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeanglinae*	Hawai'i	-,-,N	11,278 (0.56, 7,265, 2020)	127	27.09
		Mexico-North Pacific	T,D,Y	918 (0.217, UNK, 2006)	UNK	0.57
Minke whale	*Balaenoptera acutorostra*	Alaska	-,-,N	UNK	NA	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	*Orca orcinus*	Eastern North Pacific, Norther Residents, Southeast Alaska.	-,-,N	302 (N/A, 302, 2018)	2.2	0.2
		Eastern North Pacific Alaska Residents.	-,-,N	1,920 (N/A, 1,920, 2019)	19	1.3
		West Coast Transients	-,-,N	349 (N/A, 349, 2018)	3.5	0.4
		Gulf, Aleutian, Bering Transients.	-,-,N	587 (N/A, 587, 2020)	5.9	0.8
Family Phocoenidae (porpoises):						
Harbor Porpoise	*Phocoena phocoena*	Northern Southeast Alaska Inland Waters.	-,-,N	1,619 (0.26, 1,250, 2019)	13	5.6
Dall's porpoise[4]	*Phocoenoides dalli*	Alaska	-,-,N	UND (UND, UND, 2015)	UND	37
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Steller sea lion	*Eumetopias jubatus*	Western Stock	E,D,Y	49,837 (N/A, 49,837, 2022)	299	267
		Eastern Stock	-,-,N	36,308 (N/A, 36,308, 2022)	2,178	93.2
Northern fur seal	*Callorhinus ursinus*	Pribilof Island/Eastern Pacific Stock.	-,D,Y	626,618 (0.2, 530,376, 2019)	11,403	373
Family Phocidae (earless seals):						
Harbor seal	*Phoca vituline richardii*	Alaska-Lynn Canal/Stephens Passage.	-,-,N	13,388 (N/A, 11,867, 2016)	214	50

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

[4] Previous abundance estimates covering the entire stock's range are no longer considered reliable and the current estimates presented in the SARs and reported here only cover a portion of the stock's range. Therefore, the calculated N_{min} and PBR is based on the 2015 survey of only a small portion of the stock's range. PBR is considered to be biased low since it is based on the whole stock whereas the estimate of mortality and serious injury is for the entire stock's range.

We have preliminarily determined that no new information affects our original analysis of impacts under the initial IHA. However, as stated above, MOS is requesting to add take by Level A and Level B harassment of northern fur seal. This species was not previously documented in Skagway and was not expected to appear in the project area; therefore, no take was originally requested or authorized in the initial IHA. However, a northern fur seal yearling has been observed near the project site on multiple occasions in January 2024.

Northern Fur Seal

Northern fur seals primarily inhabit open ocean and rocky or sandy beaches on islands for resting, reproduction, and molting (NOAA 2022a). Non-breeding northern fur seals may occasionally haul out on land at other sites in Alaska, British Columbia, and on islets along the west coast of the United States (Fiscus, 1983). During the reproductive season, adult males usually are on shore during the 4-month period from May to August, although some may be present until November. Adult females are on

shore during a 6-month period, June to November. Following their respective times ashore, Alaska northern fur seals of both sexes then move south and remain at sea until the next breeding season (Roppel 1984). In Alaska, pups are born during summer months and leave the rookeries in the fall, on average around mid-November but ranging from late October to early December. Alaska northern fur seal pups generally remain at sea for 22 months (Kenyon and Wilke 1953). There is no relevant site-specific information on northern fur seals in the project area other than the two sightings of one individual in January 2024 by PSOs.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat may be found in the documents supporting the final IHA, which remains applicable to the modification of the IHA. NMFS is not aware of new information regarding potential effects.

Estimated Take

A detailed description of the methods and inputs used to estimate authorized take for the specified activity are found in the previous notice (88 FR 60652, September 5, 2023). The types and sizes of piles, ensonified areas and source levels, methods of pile driving, and methods for calculating take remain unchanged from the IHA.

The proposed modification addresses the updated species densities to accommodate work in spring and summer, which would result in increased take by Level B harassment of Steller sea lions. The proposed modification includes work in spring and summer seasons, which were not previously included in the IHA. Therefore, in this modification MOS uses the same density methodology for take calculations but using an annual average density for each species (see revised species densities in table 4). Additionally, this proposed modification adds take by both Level A and Level B harassment for northern fur seal, which were not previously expected to be in the project area. The annual average density estimate for northern fur seal is provided below utilizing the same methodology as all other species in the original IHA.

TABLE 4—DENSITY OF MARINE MAMMAL SPECIES IN THE PROJECT AREA

Species	Seasonal density (animals per square kilometer (km^2))				Average density (animals per km^2)
	Spring	Summer	Fall	Winter	
Humpback whale	[1] 0.0081	0.0117	0.018	[1] 0.0081	0.0115
Minke whale	[1] 0.0003	0.0008	0.0005	[1] 0.0003	0.0005
Killer whale	0.0153	[2] 0.005	0.0349	[2] 0.005	0.0151
Harbor porpoise	[3] 0.01	[3] 0.01	[3] 0.01	[3] 0.01	0.01
Dall's porpoise	[3] 0.121	[3] 0.121	[3] 0.121	[3] 0.121	0.121
Harbor seal	[4] 1.727	0.7811	[4] 1.727	[4] 1.727	1.4905
Steller sea lion	0.2662	0.3162	0.2205	0.2662	0.2673
Northern fur seal	0.2763	0	0	0	0.0691

[1] Listed density was provided for winter and spring.
[2] Listed density was provided for winter and summer.
[3] Listed density was annual average.
[4] Listed density was provided for fall, winter, and spring.

MOS is requesting a modification of the previously issued authorization to add take by Level A and Level B harassment of northern fur seal and to adjust the take requests for other species based on average species densities throughout the year due to work occurring in all seasons. This consequently increases the take by Level B harassment request for Steller sea lion (table 5). No other species take requests are updated in this modification. Additionally, the updated take by Level B harassment of Steller sea lions is only a modification for the Eastern US stock and not the MMPA depleted Western US stock which is equivalent to the listed Western DPS. As per the original IHA and the Biological Opinion, we still only expect take by Level B harassment of 3 individuals from the Western US stock and the remaining 267 from the Eastern US stock.

TABLE 5—REQUESTED TAKE AMOUNT, PER SPECIES, RELATIVE TO POPULATION SIZE

	Stock	Level A	Level B	Total take	Percent of population
Humpback whale	Hawaii	2	13	15	<1
	Mexico-North Pacific	0	1	1	<1
Minke whale	Alaska	2	6	8	UNK
Killer whale	Eastern North Pacific, Northern Residents, Southeast Alaska; Eastern North Pacific Alaska Residents; West Coast Transients; and Gulf, Aleutian, Bering Transients.	2	90	92	2.57
Harbor porpoise	Southeast Alaska	17	75	92	8.9
Dall's porpoise	Alaska	43	193	236	1.8
Harbor seal	Alaska—Lynn Canal/Stephens Passage	193	2,760	2,953	22.14
Steller sea lion	Eastern US + Western US	2	270	272	<1
Northern fur seal	Pribilof Islands/eastern Pacific stock	2	45	47	<1

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring and reporting measures are identical to those included in the initial IHA and remain relevant for this modified IHA. These can all be found in the documents supporting the initial final IHA.

Preliminary Determinations

With the exception of the revised take numbers and addition of a new species, the MOS's in water construction activities as well as mitigation and reporting requirements are unchanged from those in the initial IHA. The effects of the activity on the affected species and stocks remain unchanged, notwithstanding the increase to the authorized amount of Steller sea lion take by Level B harassment and addition of take by Level A and Level B harassment of northern fur seal.

The additional takes from Level A and Level B harassment would be due to potential behavioral disturbance, temporary threshold shift (TTS) or permanent threshold shift (PTS). No serious injury or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. The potential for harassment is minimized through the construction method and the implementation of the planned mitigation measures (see *Description of Proposed Mitigation, Monitoring and Reporting Measures* section).

The MOS's proposed pile driving project precludes the likelihood of serious injury or mortality. For all species and stocks, take would occur within a limited, confined area (within Taiya Inlet) of the stock's range. Level A and Level B harassment would be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. Furthermore, the amount of take proposed to be authorized is extremely small when compared to stock abundance.

The additional 74 takes of Steller sea lion represents a minor increase in the percent of stock taken that was authorized in the initial IHA, and the anticipated impacts are identical to those described in the 2023 final IHA. Additionally, this increase is only of the Eastern US stock; no additional takes of the Western US stock are anticipated or proposed for authorization. There is no new information suggesting that our initial analysis or findings should change for Steller sea lions. Separately, the addition of take proposed by Level A and Level B harassment of northern fur seal is less than 0.1 percent of the total stock and therefor this activity will not cause effects on annual rates of recruitment or survival. We have preliminarily determined that the impacts resulting from this activity are not expected to adversely affect annual rates of recruitment or survival for northern fur seals and we preliminarily re-affirm our previous findings for Steller sea lions.

Based on the information contained here and in the referenced documents, NMFS has preliminarily determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the proposed authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the proposed authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) MOS's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we plan to authorize take for endangered or threatened species, in this case with the Alaska Regional Office.

For the original IHA, NMFS Office of Protected Resources completed a Section 7 consultation with the NMFS Alaska Regional Office for the issuance of this IHA on August 23, 2023. The Alaska Regional Office's biological opinion states that the action is not likely to jeopardize the continued existence of the listed species. This modification of the IHA does not modify or change any take of listed species and there for the prior determination remains unchanged.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue a modified IHA to MOS for conducting construction activities associated with the terminal redevelopment in Skagway, Alaska, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses (included in both this document and the referenced documents supporting the 2023 IHA), the proposed authorization, and any other aspect of this notice of proposed modification of the IHA for the Skagway terminal redevelopment project. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: March 28, 2024.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–06963 Filed 4–1–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 240325–0086]

RIN 0660–XC056

National Environmental Policy Act Procedures and Categorical Exclusions

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (''NTIA'') publishes this Notice that it will follow the First Responder Network Authority's (''FirstNet Authority'') National Environmental Policy Act (''NEPA'') procedures on an interim basis with modifications to account for NTIA's internal organization and establish 30 new categorical exclusions (''CEs'') in compliance with NEPA, Council on Environmental Quality (''CEQ'') regulations, and other related authorities.

DATES: The use of these procedures and CEs will take effect as of April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Amanda Pereira, Environmental Program Officer, National

Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4878, Washington, DC 20230, by phone at 202–834–4016, or by email at *apereira@ntia.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

NTIA is the executive branch agency that is principally responsible for advising the President on telecommunications and information policy issues. NTIA's programs and policymaking focus largely on expanding broadband Internet access and adoption in the United States, expanding the use of spectrum by all users, and ensuring that the Internet remains an engine for continued innovation and economic growth. NTIA is engaged in a range of efforts to increase Internet access and adoption.

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act, Public Law 117–58, (''IIJA'') into law. Passage of the IIJA is a significant step forward in achieving the Biden-Harris Administration's goal of providing broadband access to the entire United States. The IIJA sets forth a $65 billion investment into broadband; $48.2 billion of that investment will be administered by NTIA. This investment will leverage NTIA's experience in promoting broadband infrastructure development and digital inclusion efforts. To facilitate NTIA's compliance with the IIJA and because of the critical need to expand and secure broadband access across the United States, NTIA must find opportunities to accelerate effective use of its appropriated funding while ensuring compliance with all relevant authorities, including NEPA.

Presently, CEQ is undertaking a multiphase rulemaking process to review and revise the NEPA implementing regulations.[1] Therefore, NTIA proposed to establish new CEs and otherwise follow the existing NEPA implementing procedures of the FirstNet Authority, an independent authority within NTIA, in the interim while CEQ completes its rulemaking processes. Following the FirstNet Authority's procedures [2] will facilitate the IIJA's large-scale investment in NTIA programs and the need for NTIA to fulfill the mandates of the IIJA in a timely manner, by ensuring NTIA make the most efficient use of time and available funding and resources to fulfill its environmental analysis and decision-making responsibilities. Following CEQ's revisions to the NEPA regulations, NTIA intends to propose comprehensive NEPA procedures. In the interim, NTIA will rely on the FirstNet Authority procedures consistent with how they are written and currently executed, with the exception of the Roles and Responsibilities section, which NTIA will address by publishing guidance on its website reflecting NTIA's internal organization. In addition, NTIA is establishing and publishing CEs specific to NTIA's actions.

Accordingly, on March 30, 2023, NTIA published for comment its proposal to rely on the FirstNet Authority's NEPA implementing procedures and establish NTIA's CEs.[3] Publication of the Notice began a 30-day comment period that ended on May 1, 2023. NTIA received eight substantive submissions from the broadband and telecommunications community, including one state regional cooperative and seven industry associations. A complete set of comments filed in response to the proposal may be viewed at *https://www.regulations.gov*, searching for Docket ID NTIA–2023–0004.

In response to that Notice, commenters encouraged NTIA to maintain or incorporate CEs established by the Department of Commerce in 2009 (which have been used by NTIA since 2009) and to acknowledge the applicability of CEs established by FirstNet in 2018 to NTIA's actions. NTIA undertook a comparative review of the existing Department programs to identify the applicable Department-wide CEs already available to NTIA. In light of this review, NTIA is not finalizing the CEs proposed as B–5 and C–8 because the actions they cover are encompassed by existing Department-wide CEs. In response to comments, NTIA also made minor editorial revisions to several of the proposed CEs for consistency with Department-wide and FirstNet Authority CEs, as explained throughout this Notice, and updated its administrative record to explain the changes. This Notice finalizes newly established CEs that NTIA may apply to its proposed actions and the implementing procedures it will use in the interim. Additionally, where appropriate, NTIA may continue to apply Departmental CEs that are currently available to NTIA when they would best support NTIA's mission and NEPA activities. Accordingly, while this Notice establishes new CEs, in so doing NTIA clarifies that Departmental CEs remain applicable to NTIA programs and that it may adopt or establish additional CEs through separate and subsequent processes.

Commenters generally supported NTIA's interim use of FirstNet's NEPA implementing procedures; however, NTIA received several comments expressing concerns about how NTIA will implement NEPA for the Broadband Equity Access and Deployment (BEAD) Program. In the near term, NTIA will follow the FirstNet implementing procedures for BEAD and all other NTIA actions and will also consider all procedural comments in developing its final implementing procedures once CEQ completes its rulemaking process.

NTIA consulted with CEQ on the proposed and final revisions to the FirstNet Authority's NEPA implementing procedures and NTIA's newly established CEs. CEQ issued a letter stating that it has reviewed the revised procedures, including the newly established CEs, and found them to be in conformity with NEPA and CEQ regulations.[4] The final CEs and administrative record will be available for review at *ntia.gov*.

II. Comments and Agency Responses

Comments on the proposed procedures and CEs included several similar positions, inquiries both within and outside the scope of the Notice, and recommendations stemming from the proposed procedural adoption and development of categorical exclusions. NTIA has carefully considered each of the comments submitted, grouped and summarized the comments by issues raised, and responded accordingly.

NEPA Should Not Apply to BEAD

Comment: One commenter was concerned that imposing NEPA's environmental review standards on BEAD recipients will have the effect of unduly delaying the construction of broadband networks by adding unnecessarily burdensome and time-consuming environmental review that is not required by the statute. As a result, the commenter suggested that NTIA should determine that NEPA does not apply to the BEAD program.

Response: NTIA has determined that the issuance of $42.5B in Federal grant funding meets NEPA's statutory definition of major Federal action because these Federal funds are under substantial Federal control through requirements associated with 2 CFR part

[1] 86 FR 55759 (Oct. 7, 2021).

[2] *https://www.firstnet.gov/sites/default/files/FirstNet_Implementing_Procedures_January_2018.pdf*.

[3] 88 FR 19089 (March 30, 2023).

[4] See CEQ NTIA Conformity Letter (March 1, 2024) available at *www.ntia.gov*.

200. NEPA requires Federal agencies to interpret and administer Federal laws in accordance with NEPA's policies to ensure sound decision making. NTIA is committed to work with CEQ to find ways to ensure NEPA efficiencies, including through the development of these CEs.

Multiple Permitting and Approval Processes

Comment: Several commenters noted that broadband installations often require permits and approvals on Federal lands, along interstate and state highways, through local and private rights-of-way (ROWs), and on poles and across railroad crossings across and from multiple entities and jurisdictions. Commenters expressed a general need for an efficient and streamlined approach to NTIA's environmental review and other approvals necessary to reach the unserved and underserved in a timely manner.

Response: NTIA recognizes that the execution and deployment of projects throughout its programs may involve multiple permits, approvals, entities and jurisdictions. NTIA is proactively engaging with Federal, State, and local agencies and Tribes to reduce redundancies, avoid duplicative reviews, and attempt to streamline permitting and approvals processes for these important broadband infrastructure projects.

As a result of IIJA's large-scale investment in NTIA programs and the need for NTIA to fulfill the mandates of IIJA, in 2022, NTIA stood up a Permitting Tiger Team to identify the most efficient approach to fulfilling the agency's environmental analysis and decision-making responsibilities under NEPA. NTIA's extensive work with CEQ to finalize these newly established CEs directly benefits recipients by providing a thoughtful and thorough streamlining tool that can improve the predictability of reviews where NTIA is the lead agency. In addition, if other agencies see benefits to adopting these newly established CEs or other applicable CEs to efficiently execute aspects of broadband deployment in their jurisdiction, NTIA will coordinate with them to do so when appropriate.

Through its participation in the American Broadband Initiative (ABI) and its roles and responsibilities under the MOBILE NOW Act, NTIA participates in the ''Streamlining Federal Permitting'' workstream (led by the Departments of Homeland Security, the Interior, and Agriculture) and has aligned interagency colleagues in a range of initiatives to streamline and facilitate the deployment of communications installations. For example, NTIA identified a potential bottleneck for deploying communication facilities on Tribal lands managed by the Bureau of Indian Affairs (''BIA''). NTIA and BIA have executed a memorandum of understanding (''MOU'') that defines the relationship between NTIA and BIA and their individual and collective roles and responsibilities in complying with environmental, historic preservation, and cultural resources requirements related to the Tribal Broadband Connectivity Program (''TBCP'') established by the Consolidated Appropriations Act of 2021 (''CAA''). The MOU streamlines NEPA reviews and environmental permitting for both NTIA, as the lead Federal agency for grant programs, and BIA, as authorized to grant ROWs over and across land held in trust by the United States under the Indian Right-of-Way Act.

In July 2023, NTIA circulated its Federal Permitting Coordination Strategy to obtain input from Federal permitting agencies. In August 2023, NTIA began implementing strategies that foster open communication so that project-level problems and delays can be identified as early as possible, and collaborative solutions can be developed. NTIA has provided predictive mapping tools to assist permitting agencies in identifying and planning for application surges and has worked with the Federal Permitting Improvement Steering Council to fund supplemental permitting staff and resources.

At the project level, NTIA environmental reviewers work closely and cooperatively with Federal agencies when projects are sited on federally managed lands and will continue to do so in accordance with new obligations under NEPA that require the designation of a lead agency when multiple agencies have independent but intersecting NEPA responsibilities on a single action. In such instances, NTIA engages in early coordination to align its approvals with the authorities of Federal land managing agencies, which have the expertise and local area knowledge of the resources and communities potentially affected by proposed projects, with the goal of reducing or eliminating duplication of effort wherever possible.

NTIA Should Adopt the Findings of Other Agencies

Comment: Commenters also noted that environmental reviews are often required by multiple agencies and may require redundant and duplicative analysis. They suggested that, when projects require review by multiple agencies, NTIA should adopt the findings of the other Federal agency or agencies without further environmental review to support compliance with NEPA.

Response: While NTIA has an independent obligation to ensure that analysis of its actions meets legal and technical sufficiency requirements, NTIA strives to reduce or eliminate duplication of effort to gain efficiency in the environmental compliance process. Changes to NEPA as a result of the Fiscal Responsibility Act of 2023 (FRA) require that ''[t]o the extent practicable, if a proposed agency action will require action by more than one Federal agency and the lead agency has determined that it requires preparation of an environmental document, the lead and cooperating agencies shall evaluate the proposal in a single environmental document.'' Additionally, where NTIA has an action that is substantially the same as one considered in another agency's NEPA document or categorical exclusion determination, NTIA will consider adopting it if consistent with 40 CFR 1506.3.

NEPA Approvals Should Be Provided at Grant Award

Comment: One commenter noted that competition for fiber contractors and availability of materials are challenging to project timelines and suggested that providing NEPA approvals at grant award would enable grantees to immediately begin construction.

Response: NTIA can approve projects when there is an ''actionable'' project and NEPA documentation is complete. A project is actionable once NTIA has decided to award a grant. To make a NEPA decision on a project, NTIA must have adequate information about the project to evaluate the project's potential environmental impacts. NTIA may approve CEs for projects with no ground disturbance and no impacts on buildings or structures upon grant award if the application includes sufficient information to support such a determination. Otherwise, NTIA will either conduct the NEPA review based on the information the grantee provides or condition the award on provision of sufficient information to allow NTIA to complete the NEPA review prior to releasing funds.

While NTIA encourages grantees to provide a detailed description of their proposed project and the area in which it would be sited with their grant applications, NTIA does not require grant applicants to develop a full NEPA analysis prior to award. If a grantee voluntarily elects to submit a complete

environmental analysis pre-award, NTIA will review this information to ascertain if a NEPA decision is possible at the time of grant award.

Clarify Environmental Review Timelines

Comment: Some commenters noted that the environmental analysis and review process could delay construction and put projects and grant funding at risk and requested that NTIA clarify buildout deadlines and extensions and environmental review timelines under IIJA. Commenters also thought that NTIA should consider applying ''shot clocks'' to allow projects to move forward within an established timeframe even if environmental review has not been completed.

Response: Recent changes to NEPA require agencies to conclude environmental analysis within 1 year for EAs and within 2 years for EISs. NTIA has previously estimated that the CE process can take approximately 3 to 6 months.[5] NTIA's newly established CEs ensure that this streamlined NEPA option is available to most grant funded broadband projects. As a cooperating agency to FirstNet's Programmatic EIS documents, NTIA is further exploring how to use these analyses to streamline NEPA for projects that may not qualify as categorically excluded but where the substantial record of past review supports that, where mitigation measures and best management practices are incorporated into the proposed action, such measures and practices can eliminate potentially significant environmental impacts.

NTIA does not currently apply shot clocks to environmental review but makes every effort to complete the NEPA review process in a timely and efficient manner upon receipt of legally and technically sufficient analysis.

Allow Segmentation of Projects

Comment: Several commenters suggested that NTIA should allow the environmental review of projects to proceed in segments to enable recipients to initiate construction of parts of projects prior to the completion of NEPA for the full project.

Response: NEPA and the CEQ regulations do not allow an agency to break a single project into multiple components (*i.e.,* phased or staged) without completing environmental review for the entire project, whether by CE, EA, or EIS.[6] In the rare cases where a grant includes multiple subgrantees/subrecipients proposing projects that are completely independent of each other, separate NEPA analyses are appropriate, NTIA may find sufficient ''independent utility'' to allow one segment to proceed while others are still receiving NEPA review.[7]

NTIA assesses independent utility based on a project's independent function, absent the construction of other components of the project. Only component parts of a grant that could be constructed even if the other phases were not built and can functionally operate on their own can be considered as separate, single, and complete projects with independent utility. In contrast, component parts of a grant or a multi-phase project that depend upon other projects, phases, stages, or segments of the project do not have independent utility.[8]

When a Federal action is divided and analyzed into smaller separate components it is known as ''segmentation.'' [9] When an agency intentionally attempts to affect the NEPA analysis by dividing a Federal action into smaller components in order to allow those smaller components to avoid studying the overall impacts of the single project, improper segmentation has occurred.[10] Furthermore, until an agency issues a NEPA determination for the single project, any action taken for component parts would limit the choice of reasonable alternatives and could prejudice the ultimate NEPA decision (40 CFR 1506.1). Thus, it is unlawful for all agencies, including NTIA, to evade their responsibilities under NEPA by artificially dividing a major Federal action into smaller components, each without significant impact.

Remove the Requirement for Draft EAs and EISs To Be Submitted and Reviewed and the Public Comment Period for EAs

Comment: Several commenters suggested that NTIA should remove the requirement for Draft EAs and EISs to be submitted and reviewed as it adds an additional layer of review and time to the environmental review process. One commenter suggested that NTIA should not utilize a formal public notice and comment cycle unless the project is similar to one that normally needs an EIS or is unprecedented.

Response: CEQ regulations are clear that an EIS is a two-stage process that requires agencies to publish a Draft EIS (40 CFR 1502.9). NTIA has historically required notice of EAs to allow for public comment, consistent with NEPA's commitment to transparency and public involvement. NTIA has elected to follow FirstNet's NEPA implementing procedures and will consider all procedural comments in developing its final NEPA implementing procedures after CEQ concludes its rulemaking process.

Streamline NHPA Process

Comment: Several commenters suggested that NTIA should streamline its process for compliance with section 106 of the National Historic Preservation Act (NHPA). They noted that through program alternatives and/or adoption of other agencies' processes, NHPA review could also be streamlined to avoid redundancies and delays.

Response: NEPA and NHPA are separate statutes. While CEs are not applicable to section 106 reviews, the Advisory Council on Historic Preservation (ACHP) NHPA implementing regulations allow for ''program alternatives'' that can improve the effectiveness and efficiency of the standard section 106 process and streamline routine reviews while focusing effort on the more complex projects or historic properties most important to communities.[11] The ACHP has issued several program alternatives for telecommunications projects that apply to NTIA grant funded activities.

NTIA currently applies the ACHP's *Program Comment for Streamlining Section 106 Review for Wireless Communications Facilities Construction and Modification Subject to Review Under the FCC Nationwide Programmatic Agreement* to eliminate the duplicative section 106 review of facilities licensed or approved by the FCC.

In addition, NTIA requested that the ACHP amend the *Program Comment for Communications Projects on Federal Lands and Property* to expand its availability beyond public lands and establish it as the section 106 review process for all broadband projects. On March 14, 2024, in response to NTIA's request, the ACHP announced an amendment that makes the provisions of the 2017 program comment, which establishes streamlined historic preservation permitting rules for

[5] *NEPA: Environmental and Historic Preservation Compliance* (webinar), *https://youtu.be/BzYFheHqL0I?si=6yOB-7vibAMbpmFT.*

[6] *Natural Resources Defense Council, Inc.* v. *U.S. Nuclear Regulatory Commission,* 196 U.S. App. D.C. 354, 606 F.2d 1261, 1269 (D.C. Cir. 1979).

[7] *Save Barton Creek Association* v. *Federal Highway Administration,* 950 F.2d 1129, 1133 (5th Cir. 1992).

[8] See 40 CFR 1501.9(e) and 1502.4 (Mentioning the concept of ''connected actions'' and ''unconnected single actions.'').

[9] *West Chicago, IL.* v. *U.S. Nuclear Regulatory Commission,* 701 F.2d at 650 (7th Cir. 1983).

[10] *O'Reilly* v. *U.S. Army Corps of Engineers,* 950 F.2d 1129 (5th Cir. 2007).

[11] 36 CFR 800.14.

communications infrastructure projects on Federal lands, available to *all* Internet for All programs and broadband projects from all Federal agencies, both on and off Federal lands.[12]

NTIA recognizes its obligations to conduct meaningful consultation with State Historic Preservation Offices,[13] Tribal Historic Preservation Offices,[14] federally recognized Tribes,[15] and the public [16] and will continue to work with the ACHP and consulting parties to streamline its processes and create efficiencies that eliminate section 106 duplication and redundances while appropriately taking historic preservation into account.

Proposed CEs Should Not Change Once NTIA Finalizes Its Implementing Procedures

Comment: One commenter urged that NTIA not alter the proposed CEs once NTIA is able to draft and finalize its own NEPA implementing procedures.

Response: While the use of the FirstNet Authority's NEPA implementing procedures will be interim until CEQ completes its rulemaking process and NTIA establishes final NEPA implementing procedures, NTIA considers these CEs final and does not intend to modify these newly established CEs in the near future.

NTIA Should Maintain Other Applicable Department of Commerce CEs

Comment: One commenter noted that the Department of Commerce has CEs that are available to NTIA, several of which are applicable to broadband deployments, and NTIA should continue to use those CEs when helpful. Several commenters noted the applicability of FirstNet CEs to NTIA actions and requested that NTIA maintain consistency in its approach, including for extraordinary circumstances.

Response: NTIA is currently using the Department's CEs to execute its programs. NTIA also made limited changes to the text of the proposed CEs to align them with the FirstNet CEs. While this Notice establishes new CEs, in so doing, NTIA clarifies that Departmental CEs remain applicable to NTIA programs and that it may adopt or establish additional CEs through separate and subsequent processes.

Ensure That NTIA's CEs Reflect That Wireless Deployment Is Different Than Wireline

Comment: One commenter noted FirstNet's charge to build a wireless broadband network and urged NTIA to ensure that its final CEs explicitly and unequivocally contemplate the installation of wireline infrastructure, as wireless backhaul and wireline networks are different.

Response: NTIA recognizes this point of clarification and the differences between wireless backhaul and a wireline network. NTIA's CEs address the full range of the agency's administrative, real property/facility, and operational activities and are intended to apply to broadband networks that are fiber, wireless, or a combination of the two. In response to this comment, NTIA made minor modifications to CEs C–4 and C–8 (originally proposed as C–9). While this Notice establishes new CEs, NTIA clarifies that Departmental CEs remain applicable to NTIA programs and that it may adopt or establish additional CEs through separate and subsequent processes.

Create CE for Two-Way Dispatch Communications for Critical Infrastructure Industry

Comment: One commenter suggested that NTIA should consider a CE for commercial service providers that offer primarily two-way dispatch communications for the critical infrastructure industry.

Response: NTIA has determined that CEs B–5 and C–7 are broad enough to support the telecommunication towers, antennas, and support/associated equipment required for such deployment; therefore, no additional specific CE is required.

Clarify CE C–8 (Originally Proposed as C–9) Applicability and Remove Caveat Regarding Existing ROWs

Comment: Several commenters requested that NTIA clarify whether CE C–8 applies to aerial and buried fiber construction. Additionally, some commenters suggested that restricting the CE's applicability to construction within existing ROWs was unduly burdensome.

Response: NTIA intends for CE C–8 to apply to both aerial and buried fiber optic construction. NTIA could apply this CE either to direct or grant-funded actions for such activities as fiber installation through trenching, vibratory plowing, or directional boring, installation of fiber or cable into existing conduit, and aerial fiber or cable deployment. For clarity, NTIA has edited CE C–8 to read as follows: ''Acquisition, installation, reconstruction, repair by replacement, and operation of aerial or buried utility (*e.g.,* water, sewer, electrical), communication (*e.g.,* fiber optic cable, data processing cable and similar electronic equipment), and security systems that use existing rights-of-way, easements, grants of license, distribution systems, facilities, or similar arrangements.''

NTIA has generated a substantial record of past analyses supporting the conclusion that sensitive resources are unlikely to occur within ''existing rights-of-way, easements, grants of license, distribution systems, facilities, or similar arrangements'' that are presumably previously disturbed and regularly maintained, and thus potentially significant impacts to sensitive resources within these corridors is unlikely. In joint comments, the Rural Broadband Association and the National Rural Electric Cooperative Association noted that the deployment of wireline broadband networks typically include buried and aerial fiber optic cable ''in rights-of-way or easements,'' substantiating that these CEs should apply in most cases.

Extraordinary Circumstances Are Vague and Will Force Most Projects Into an EA

Comment: Several commenters requested that NTIA provide more concrete parameters for extraordinary circumstances and objected to the ''reasonable likelihood'' standard as vague.

Response: Consistent with 40 CFR 1501.4(b) of CEQ regulations, when considering applying a CE NTIA is required to evaluate an action for circumstances in which a normally excluded action may have a significant effect. In response to comments, NTIA considered the need for grant recipients to clearly understand extraordinary circumstances in order to be able to identify and avoid them in project planning and made clarifying edits and modified the language to remove ''reasonable likelihood'' references. Extraordinary circumstance 8 was further edited to clarify that it would not apply to an action taken in proximity to a hazardous waste site or involving the handling of hazardous substances if NTIA determines the action is consistent with an approved remediation plan. NTIA also agrees that extraordinary circumstance 9 should comport with established and industry-

[12] ACHP Announces Program Comment Amendment to Support President Biden's Broadband Initiative, Mar. 14, 2024, available at, ACHP Announces Program Comment Amendment to Support President Biden's Broadband Initiative | Advisory Council on Historic Preservation.

[13] 36 CFR 800.2(c)(1).

[14] 36 CFR 800.2(c)(2)(i)(A).

[15] 36 CFR 800.2(c)(2)(i)(B) and (c)(2)(ii), and 36 CFR 800.4(a)(4).

[16] 36 CFR 800.2(c)(5) and (d).

recognized FCC exposure limits. The revised extraordinary circumstance 9 states, ''Reasonable likelihood that the proposed action would involve human exposure to ionizing or non-ionizing radiation or use of any radiation in excess of the Federal Communications Commission's established Maximum Permissible Exposure limits for human exposure to Radiofrequency Electromagnetic Energy fields.''

Clarify the Low-Income and Minority Community Provision in Extraordinary Circumstance 7

Comment: Two commenters suggested that NTIA should clarify how grantees should analyze extraordinary circumstance 7 concerning low-income and minority communities, since, by its nature, an increase in broadband availability is a positive impact to low-income and minority communities.

Response: As a point of clarification, NTIA's CEs are intended to encompass the entirety of NTIA's actions, short- and long-term and across business units, beyond IIJA. The Low-Income and Minority Community provision in extraordinary circumstance 7 is directly related to the concept of environmental justice as memorialized in Executive Order (E.O.) 12898 and section 3(a)(ix) of E.O. 14096, *Revitalizing Our Nation's Commitment to Environmental Justice* (April 2023) that reinforces and codifies longstanding Federal agency practice regarding environmental justice and NEPA. Environmental justice impacts and analyses could differ across different projects and programs.[17]

Given the BEAD program's likely benefits to communities with environmental justice concerns, addressing this extraordinary circumstance can be accomplished with a fairly simple analysis of the demographics of the community within the project area and an explanation of how that community would benefit from the project. (Such benefits would not discount an extraordinary circumstance giving rise to the potential of significant effects, which would require an EA or EIS). NTIA has provided and will continue to make available examples of previous projects that have received NTIA grants to demonstrate the level of environmental analysis required for this extraordinary circumstance.

[17] For further guidance, see CEQ's *Environmental Justice: Guidance Under the National Environmental Policy Act,* and EPA's *Promising Practices for EJ Methodologies in NEPA Reviews.*

III. Revisions to Specific Categorical Exclusions

NTIA is not including in this Notice the CEs proposed as B–5 and C–8 because the actions they cover are encompassed by existing Department-wide CEs. In addition, NTIA has responded to comments on the proposed set of CEs and list of extraordinary circumstances by incorporating the following seven clarifications to specific CEs and framing modifications that affect all 13 extraordinary circumstances.

B–6 (originally proposed as B–7): In response to comments expressing support for the existing Department CEs, including FirstNet CEs, NTIA clarifies that Departmental CEs remain applicable to NTIA programs. NTIA made an editorial change removing the qualifier ''space within'' existing facilities to ensure that B–7 is consistent with the existing FirstNet CE A–4 and because this qualifier does not provide any additional information about how NTIA may apply the CE.

C–4: In response to comments expressing support for the existing Department CEs, including FirstNet CEs, NTIA clarifies that Departmental CEs remain applicable to NTIA programs. NTIA made changes to promote consistency between these rules, including ensuring that improvements of land remain covered and that, consistent with the Department's A–2, actions taking place in a developed area may be categorically excluded where no extraordinary circumstances apply. NTIA also clarified that this CE is applicable to both wired and wireless facilities.

C–5: This CE is established as originally proposed with minor editorial changes.

C–8 (originally proposed as C–9): In response to comments requesting that NTIA clarify that CE C–8 included both wireline and wireless infrastructure, NTIA has specified its applicability to both aerial and buried utilities, equipment, and systems.

Extraordinary Circumstances (General). In response to multiple comments identifying concerns that the ''reasonable likelihood'' measure was overly broad, vague, and subjective, NTIA modified the language to promote clarity and facilitate the assessment of how these 13 factors apply to otherwise categorically excluded actions.

EC–8: NTIA removed the qualifiers ''unmitigable'' (construction impacts) and ''non-permittable'' (generation) to clarify that CEs are not presumed to apply to actions involving contaminated or hazardous waste sites or substances.

IV. Final Categorical Exclusions and Extraordinary Circumstances

Categorical Exclusions

Administrative Actions

A–1: Personnel, fiscal, management, and administrative activities, including recruiting, processing, paying, recordkeeping, budgeting, personnel actions, contract administration, and travel.

A–2: Preparation, modification, and issuance of policy directives, rules, regulations, procedures, guidelines, guidance documents, bulletins, and informational publications that are of an administrative, financial, legal, technical, or procedural nature, for which the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will be, in whole or part, subject later to the NEPA process, either collectively or on a case-by-case basis.

A–3: Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed.

A–4: Planning, educational, informational, or advisory activities provided to other agencies, public and private entities, visitors, individuals, or the public, including training exercises and simulations conducted under appropriately controlled conditions and in accordance with all applicable laws, regulations, and requirements.

A–5: Software development, data analysis, or testing that does not involve ground disturbing activities.

A–6: Preparation and dissemination of scientific results, studies, surveys, audits, reports, plans, papers, recommendations, and technical advice.

A–7: Technical assistance to other Federal, Tribal, State, and local agencies or the public.

A–8: Routine procurement, use, storage, transportation, and disposal of non-hazardous goods and services in support of administrative, operational, or maintenance activities in accordance with Executive Orders and Federal procurement guidelines. Examples include office supplies and furniture; equipment; mobile assets (*i.e.,* vehicles, vessels, aircraft); utility services; and deployable emergency response supplies and equipment.

A–9: Purchase of deployable mobile and portable telecommunications equipment (*e.g.,* radios, Cell on Wheels, Cell on Light Truck, System on Wheels) that will be housed in existing facilities when not deployed.

A–10: Routine use of hazardous materials (including procurement, transportation, distribution, and storage

of such materials) and reuse, recycling, and disposal of solid, medical, radiological, or hazardous waste in a manner that is consistent with all applicable laws, regulations, and requirements. Examples include use of chemicals for laboratory applications; refueling of storage tanks; temporary storage and disposal of solid waste; disposal of waste through manufacturer return and recycling programs; and hazardous waste minimization activities, including source reduction activities and recycling.

A–11: Reductions, realignments, or relocation of personnel, equipment, or mobile assets that do not result in changing the use of NTIA facilities or space in such a way that could cause a change to existing environmental effects or exceed the infrastructure capacity outside of NTIA-managed property. An example of exceeding the infrastructure capacity would be an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase.

A–12: Federal assistance, grants, and external funding for activities that do not concern environmental matters or where the environmental effects are negligible. Examples of relevant activities could include, but are not limited to, planning, studies, or programs such as the Digital TV transition, which provided rebates to consumers to subsidize the purchase of digital antennas, that have no potential to impact the environment. If an analysis determines that such activities have the potential to impact the environment, the CE cannot be applied.

A–13: Contracts, collaborative research agreements, cooperative research and development agreements, interagency agreements, and other agreements that do not concern environmental matters or where the environmental effects are negligible.

Real Property/Facility Actions

B–1: Maintenance of facilities, equipment, and grounds. Examples include interior utility work, road maintenance, window washing, lawn mowing, landscaping, weed management/maintenance, trash collecting, facility cleaning, and snow removal.

B–2: Internal modifications, renovations, or additions (*e.g.,* computer facilities, relocating interior walls) to structures or buildings that do not result in a change in the functional use of the property.

B–3: Exterior renovation, addition, repair, alteration, and demolition projects affecting buildings, roads, grounds, equipment, and other facilities, including subsequent disposal of debris, which may be contaminated with hazardous materials, lead, or asbestos. Hazardous materials must be disposed of at approved sites in accordance with all applicable laws, regulations, and requirements. Examples include the following:

(i) Painting, roofing, siding, or alterations to an existing building;

(ii) Adding a small storage shed to an existing building;

(iii) Retrofitting for energy conservation, including weatherization, installation of timers on hot water heaters, installation of energy efficient lighting, and installation of low-flow plumbing fixtures; or

(iv) Closing and demolishing a building not eligible for listing under the National Register for Historic Places.

B–4: Abatement of hazardous materials from existing facilities, including asbestos and lead-based paint, conducted in compliance with all applicable laws, regulations, and requirements established for the protection of human health and the environment. Examples include containment, removal, and disposal of lead-based paint or asbestos tiles and asbestos-containing materials from existing facilities; and remediation of hazardous materials in accordance with all applicable laws, regulations, and requirements as part of facility and space management activities.

B–5: Proposed new activities and operations conducted in an existing structure that would be consistent with previously established safety levels and would not result in a change in use of the facility. Examples include new types of research, development, testing, and evaluation activities and laboratory operations conducted within existing enclosed facilities designed to support research and development activities.

B–6: Acquisition or use of existing facilities or portion thereof by purchase, lease, or use agreement where use or operation will remain unchanged. Examples include acquiring office or laboratory space through lease, purchase, or use agreement.

B–7: Transfer of administrative control over real property, including related personal property, between another Federal agency and NTIA that does not result in a change in the functional use of the property. Examples include transfer of facilities for use by NTIA and transfers of computer equipment, office equipment, and personal property, including laptops and cell phones.

B–8: Decisions and actions to close facilities, decommission equipment, or temporarily discontinue use of facilities or equipment where the facility or equipment, including office equipment, telecommunications equipment, and computer equipment, is not used to prevent or control environmental impacts.

B–9: The determination and disposal of real property, such as excess office space, or personal property, including laptops and cell phones, that is excess to the needs of NTIA when the real property or personal property is excessed in conformity with applicable General Services Administration procedures or is statutorily authorized to be excessed.

Operational Actions

C–1: Research activities conducted in laboratories and facilities where research practices and safeguards prevent environmental impacts. Examples include types of research, development, testing, and evaluation activities, and laboratory operations conducted within existing enclosed facilities designed to support research and development activities.

C–2: Outdoor research activities conducted in compliance with all applicable laws, regulations, and requirements. Examples include types of research, development, testing, and evaluation activities conducted outdoors where no new ground disturbance occurs and no sensitive resources (*e.g.,* threatened or endangered species, archaeological sites, Tribal resources, wetlands, and waterbodies) are present, such as radar testing, radio noise measurements, and public safety communications research.

C–3: Periodic flight activities for training and research and development that are routine and comply with all applicable laws, Federal Aviation Administration regulations, and other requirements.

C–4: New construction or improvement of land, operations, or support facilities, switching stations, maintenance facilities, and other non-tower structures supporting wired or wireless communications systems in a developed area and/or on previously disturbed ground with no more than 1 acre (0.4 hectare) of ground disturbance where the proposed facility use is generally compatible with the surrounding land use and applicable zoning standards and will not require additional support infrastructure.

C–5: Installing, operating, maintaining, retrofitting, upgrading, repairing, removing, and/or replacement of existing microwave or radio communication towers, instruments, structures, or buildings that do not require ground disturbance outside of

the original footprint, including installing or collocating equipment such as antennas, microwave dishes, or power units. For communications towers at or below 199 feet, renovations and equipment additions must not cause the total height of the tower to exceed 199 feet. Existing structures must not be eligible for listing in the National Register of Historic Places.[18]

C–6: New construction or improvement of temporary buildings or experimental equipment (*e.g.,* trailers, prefabricated buildings, and test slabs) on previously disturbed ground, with no more than 1 acre (0.4 hectare) of ground disturbance, where the proposed facility use is generally compatible with the surrounding land use and applicable zoning standards and will not require additional support infrastructure.

C–7: New construction of self-supporting (*e.g.,* monopole or lattice) wireless communication towers at or below 199 feet with no guy wires that require less than 1 acre (0.4 hectare) of ground disturbance and where another Federal agency would not require an EA or EIS for its acquisition, installation, operations, or maintenance.

C–8: Acquisition, installation, reconstruction, repair by replacement, and operation of aerial or buried utility (*e.g.,* water, sewer, electrical), communication (*e.g.,* fiber optic cable, data processing cable and similar electronic equipment), and security systems that use existing rights-of-way, easements, grants of license, distribution systems, facilities, or similar arrangements.[19]

Extraordinary Circumstances

Extraordinary Circumstances that may preclude the use of a CE include:

1. Proposed action occurs within an environmentally sensitive or unique[20] geographic area of notable recreational, ecological, scientific, cultural, scenic, or aesthetic importance.

2. Proposed action may adversely impact species listed or proposed to be listed as endangered or threatened or have adverse effects on designated critical habitat for these species.

3. Proposed action may adversely impact protected migratory birds or their habitats.

4. Proposed action may adversely affect historic, archeological, or cultural sites, including Native American Traditional Cultural Properties, and properties listed or eligible for listing on the National Register of Historic Places.

5. Proposed action restricts access to and ceremonial use of Indian sacred sites by Indian practitioners or adversely affects the physical integrity of such religious sacred sites.

6. Proposed action occurs in floodplains or involves significant changes to or effects on waterbodies, wetlands, floodplains, water quality, sole source aquifers, public water supply systems, or State, local, or Tribal water quality standards established under the Clean Water Act or the Safe Drinking Water Act.

7. Proposed action may have a disproportionate and adverse human health or environmental effect[21] on low-income populations, minority populations, or other communities with environmental justice concerns.

8. Proposed action involving construction impacts on or near an active, inactive, or abandoned contaminated or hazardous waste site, or involving non-permitted generation, transportation, treatment, storage, or disposal of substances hazardous to human health or the environment, unless NTIA determines the action is consistent with an approved remediation plan for the site.

9. Proposed action would involve human exposure to ionizing or non-ionizing radiation or use of any radiation in excess of the Federal Communications Commission's established Maximum Permissible Exposure limits for human exposure to Radiofrequency Electromagnetic Energy fields.

10. Proposed action is controversial because of the introduction or employment of unproven technology, highly scientifically uncertain or unique environmental effects, substantial disagreement over the possible size, nature, or effect on the environment, or likelihood of degrading already existing poor environmental conditions.

11. Proposed action may violate a federal, Tribal, state, or local law, regulation, policy, or requirement imposed for the protection of the environment.

12. Proposed size or scope of action is greater than is normal for an action of its type.

13. Proposed action may cause other significant effects on human health or the environment that have not been otherwise addressed.

Dated: March 26, 2024.

Sean Conway,

Acting Chief Counsel, National Telecommunications and Information Administration.

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BILLING CODE 3510–60–P

[18] In response to comments expressing support for existing Departmental CEs including those of FirstNet, NTIA notes that establishment of these new CEs does not preclude the use of Departmental or other CEs that may be otherwise available to NTIA where they apply to a proposed action. Two existing Department of Commerce CEs (the Department's A–4 and FirstNet's B–7) may be applicable to related actions. Commerce's A–4 covers *Siting, construction, operation, and maintenance of microwave/radio communication towers less than 200 feet in height without guy wires on previously disturbed ground.* FirstNet's B–7 covers *Changes or additions, including retrofit and upgrade, to telecommunications sites, towers under 200 feet, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare).*

[19] In response to comments expressing support for existing Departmental CEs including those of FirstNet, NTIA notes that establishment of these new CEs does not preclude the use of Departmental or other CEs that may be otherwise available to NTIA where they apply to proposed actions involving buried and aerial lines, cables, and related facilities.

[20] ''Environmentally sensitive or unique'' resources and areas may include: federal lands; areas having special designation or recognition such as prime or unique or agricultural lands; designated wilderness or wilderness study areas; wild and scenic rivers; coastal zones; National Wildlife Refuges; National Parks; areas of critical environmental concern; or other areas of high environmental sensitivity.

[21] E.O. 14096 section 3(i).

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 240325–0085]

RIN 0660–XC061

Adoption of First Responder Network Authority Categorical Exclusions Under the National Environmental Policy Act

AGENCY: National Information and Technology Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Information and Technology Administration (NTIA) has identified categorical exclusions (CEs) established by the First Responder Network Authority (FirstNet Authority), an independent authority within NTIA, that cover categories of actions under the National Environmental Policy Act (NEPA) that NTIA proposes to take. This notice identifies the FirstNet Authority CEs and NTIA's categories of proposed actions for which it intends to use FirstNet Authority's CEs and describes the consultation between the agencies.

DATES: The CEs identified below are available for NTIA to use for its proposed actions effective April 2, 2024.

FOR FURTHER INFORMATION CONTACT: Amanda Pereira, NTIA, telephone number 202–834–4016, email *apereira@ntia.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NEPA and CEs

Congress enacted the National Environmental Policy Act, 42 U.S.C. 4321–4347, (NEPA) in order to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321, 4331. NEPA seeks to ensure that agencies consider the environmental effects of their proposed major actions in their decision-making processes and inform and involve the public in that process. NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA implementing regulations, 40 CFR parts 1500 through 1508 (CEQ regulations).

Under the CEQ regulations, to comply with NEPA, agencies determine the appropriate level of review of any major Federal action—an environmental impact statement (EIS), environmental assessment (EA), or categorical exclusion (CE). 40 CFR 1501.3. If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision. 40 CFR part 1502, 1505.2. If the proposed action is not likely to have significant environmental effects or the effects are unknown, the agency may instead prepare an environmental assessment (EA), which involves a more concise analysis and process than an EIS. 40 CFR 1501.5. Following the EA, the agency may conclude that the action will have no significant effects and document that conclusion in a finding of no significant impact. 40 CFR 1501.6. However, if, after the analysis, the agency concludes that the action is likely to have significant effects, then an EIS is required.

Under NEPA and the CEQ regulations, a Federal agency also can establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in their agency NEPA procedures. 42 U.S.C. 4336e(1); 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d). If an agency determines that a CE could apply to a proposed action, it then evaluates the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b). If no extraordinary circumstances are present, the agency may apply the CE to the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2), 40 CFR 1501.4. If extraordinary circumstances are present, the agency nevertheless may still apply the categorical exclusion to the proposed action if it determines that there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects.

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to adopt another Federal agency's CEs for its own proposed actions. 42 U.S.C. 4336c. To use another agency's CEs under section 109, the ''adopting agency'' must: identify the relevant CEs listed in the NEPA procedures of another agency (the ''establishing agency'') that covers the adopting agency's category of proposed actions or related actions; consult with the establishing agency to ensure that the proposed adoption of the CEs for a category of actions is appropriate; identify to the public the CEs that the adopting agency plans to use for its proposed actions; and document adoption of the CE. 42 U.S.C. 4336c. NTIA has prepared this notice to meet these statutory requirements and identify to the public the FirstNet Authority CEs that NTIA is adopting.

NTIA's Programs

NTIA is the Executive Branch agency that is principally responsible for advising the President on telecommunications and information policy issues. NTIA's programs and policies focus largely on expanding broadband internet access and adoption in the United States, expanding the use of spectrum by all users, and ensuring that the internet remains an engine for continued innovation and economic growth. NTIA is engaged in a range of efforts to increase internet access and adoption.

In November 2021, Congress passed the Infrastructure Investment and Jobs Act (''IIJA'').[1] The law provides NTIA with $48.2 billion to establish five new broadband grant programs and to further implement the previously established Tribal Broadband Connectivity Program (''TBCP''). The largest new program is the Broadband Equity, Access, and Deployment Program (BEAD), which seeks to expand high-speed internet access by funding planning, infrastructure deployment, and adoption programs in all 50 states, Washington DC, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

II. FirstNet Authority Categorical Exclusions

NTIA has identified the following CEs listed in appendix B of the FirstNet Authority's Procedures for Implementing the National Environmental Policy Act.[2] Each of the FirstNet Authority CEs includes conditions on the scope or application of the CE within the text of the numbered paragraphs listed below. Under each CE, NTIA has described categories of proposed actions for which NTIA contemplates using the CE at this time; NTIA may apply the CEs identified below to other activities where NTIA determines the CE covers the activity and no extraordinary circumstances are present.

1. [B.3] Construction of buried and aerial telecommunications lines, cables, and related facilities.

Potential application to NTIA activities:

- Financial assistance for construction or modification of aerial or buried fiber optic telecommunications equipment, including, but not limited to, fiber optic cable, transmission poles, including pole replacement, equipment sheds, and utility huts.
- Construction or modification of aerial or buried fiber optic telecommunications equipment at NTIA facilities, including, but not limited to, fiber optic cable, transmission poles, including pole replacement, equipment sheds, and utility huts.

2. [B.4.] Changes to existing transmission lines that involve less than 20 percent pole replacement, or the complete rebuilding of existing distribution lines within the same right-of-way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction.

- Financial assistance for modification of existing transmission lines, including addition of aerial fiber optic cables to electric power lines and burial of fiber optic cables in existing powerlines or pipelines.
- Modification of existing transmission lines at NTIA facilities, including addition of aerial fiber optic cables to electric power lines and burial of fiber optic cables in existing powerlines or pipelines.

3. [B.7.] Changes or additions to telecommunication sites, substations,

[1] Infrastructure Investment and Jobs Act, Public Law 117–58 (2021).

[2] *https://www.firstnet.gov/sites/default/files/FirstNet_Implementing_Procedures_January_2018.pdf.*

switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare).

Potential application to NTIA activities:

- Financial assistance for modifications to structures and sites supporting telecommunications service necessary to connect unserved or underserved locations.
- Modifications to NTIA facilities supporting telecommunications service necessary to connect NTIA facilities.

4. [B.12.] Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the Applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way.

Potential application to NTIA activities:

- Financial assistance for construction or modification of aerial or buried fiber optic telecommunications equipment in or adjacent to transportation rights of way, including reconstruction of power or telecommunications lines to provide broadband service.

5. [B.13.] Phase or voltage conversions, reconductoring, or upgrading of existing electric distribution lines or telecommunications facilities.

Potential application to NTIA activities:

- Financial assistance for construction or modification of aerial or buried fiber optic cable to rural and underserved locations, including retrofitting, upgrading, or modernization of existing infrastructure when necessary to provide broadband service.

6. [B.15.] Deployment of Cells on Wheels, Systems on Wheels, or another deployable architecture intended for temporary placement (no more than two years) on an impervious surface.

Potential application to NTIA activities:

- Financial assistance for deployment and maintenance of mobile communication systems, including ground-based and aerial deployable technologies, to provide temporary broadband service in areas where such service is not available, including areas where infrastructure has been damaged by natural disaster.
- Deployment and maintenance of mobile communication systems at NTIA facilities, for testing purposes at temporary locations, or as needed in areas where infrastructure has been damaged by natural disaster, including ground-based and aerial deployable technologies, to provide temporary broadband service.

III. Consideration of Extraordinary Circumstances

If an agency determines that a CE covers a proposed action, the agency must evaluate the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b). In a separate **Federal Register** notice concurrent with this notice, NTIA is publishing interim NEPA implementing procedures and establishes 30 categorical exclusions and a list of the extraordinary circumstances it considers in determining whether to apply a categorical exclusion. The CEs adopted from the FirstNet Authority will supplement NTIA's newly established CEs and the CEs that NTIA currently applies to its actions. NTIA will consider its newly established extraordinary circumstances, as well as the extraordinary circumstances established in the FirstNet Authority's procedures, in assessing whether a proposed action has the potential to result in significant effects, and if so, whether there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects, consistent with 40 CFR 1501.4(b). If NTIA cannot apply a CE to a particular proposed action due to extraordinary circumstances, NTIA will prepare an EA or EIS, consistent with 40 CFR 1501.4(b)(2), or determine if the action is covered under an existing NEPA document.

IV. Consultation With FirstNet Authority and Determination of Appropriateness

The FirstNet Authority is an independent authority within NTIA, established by the Middle-Class Tax Relief and Job Creation Act of 2012 to deploy and operate a nationwide public safety broadband network.[3] Similar to NTIA's grant programs, the FirstNet Authority's mandate includes planning and constructing telecommunication and broadband infrastructure across the United States and its territories. The specific activities that NTIA now anticipates funding are comparable to the FirstNet Authority project implementation activities in both scope and geographic span.

Over the past year, NTIA consulted with the FirstNet Authority on the applicability of the FirstNet Authority's NEPA implementing procedures to NTIA's proposed actions and took public comment on a proposal to follow the FirstNet Authority's procedures on an interim basis.[4] In recent months, NTIA and the FirstNet Authority have consulted on the appropriateness of NTIA adopting certain FirstNet Authority CEs in response to public comments NTIA received noting the applicability of certain FirstNet Authority CEs to NTIA's proposed actions. That recent consultation has included a review of the FirstNet Authority's experience developing and applying its CEs. The agencies determined that NTIA's proposed actions are similar to the projects that the FirstNet Authority funds (*i.e.,* communications infrastructure) and that the impacts of NTIA's proposed actions will be similar to the impacts of FirstNet Authority projects, which are not significant absent extraordinary circumstances. Therefore, NTIA has determined that its proposed use of the CEs as described in this notice would be appropriate because the categories of actions for which NTIA plans to use the FirstNet Authority CEs are similar to FirstNet Authority's use of the CEs.

V. Conclusion

This notice documents adoption of the FirstNet Authority CEs listed above in accordance with 42 U.S.C. 4336c(4), and they are available for use by NTIA, effective immediately.

Dated: March 26, 2024.

Sean Conway,

Acting Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2024–06748 Filed 4–1–24; 8:45 am]

BILLING CODE 3510–60–P

[3] 47 U.S.C. 1401.

[4] 88 FR 19089 (*https://www.federalregister.gov/documents/2023/03/30/2023-06575/national-environmental-policy-act-procedures-and-categorical-exclusions*).

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0029]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD (P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection

and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 3, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Under Secretary of Defense for OUSD(P&R), Office of the Executive Director, 4000 Defense Pentagon, Suite 4B849, Washington, DC 20301, Jessica Levin, (703) 693–9087.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Military OneSource Records Request; DD Forms 3126 and 3127; OMB Control Number 0704–MTPR.

Needs and Uses: This collection is needed to standardize the collection of data by the OUSD(P&R) for Military OneSource records access requests, in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552). The OUSD(P&R) utilizes the information provided via this collection to confirm the identity of the requestor, facilitate the timely and accurate identification of the requested records, and ensure written consent for the release of these records is received from all participants.

Affected Public: Individuals or households.

Annual Burden Hours: 87.5.

Number of Respondents: 350.

Responses per Respondent: 1.

Annual Responses: 350.

Average Burden per Response: 15 minutes.

Frequency: As required.

Dated: March 26, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–06927 Filed 4–1–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Availability of Designation of Chinese Military Companies

AGENCY: Office of the Under Secretary of Defense (Acquisition and Sustainment), Department of Defense.

ACTION: Notice of Chinese military companies.

SUMMARY: The Secretary of Defense has determined that the entities listed in the **SUPPLEMENTARY INFORMATION** section of this notice qualify as ''Chinese military companies'' in accordance with the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021 (FY21).

FOR FURTHER INFORMATION CONTACT: Ms. Nicoletta S. Giordani, Director (GIES), (703) 693–6613.

SUPPLEMENTARY INFORMATION: Section 1260H of the William M. (Mac) Thornberry NDAA for FY21 (Pub. L. 116–283) requires the Secretary of Defense to continue to list ''Chinese military companies'' (CMCs) annually until December 31, 2030. Paragraph (b)(2) of this section requires the Secretary of Defense to publish the unclassified portion of such list in the **Federal Register**.

The Secretary of Defense has determined that the following entities qualify as ''Chinese military companies'' in accordance with Section 1260H of the William M. (Mac) Thornberry NDAA for FY21 (Pub. L. 116–283):

360 Security Technology Inc. (Qihoo 360)
Advanced Micro-Fabrication Equipment Inc. China (AMEC)
Aerospace CH UAV Co., Ltd (S–SEA)
Aerosun Corporation (Aerosun)
Aviation Industry Corporation of China Ltd. (AVIC)
AVIC Aviation High-Technology Company Limited (AVIC Aviation Hi-Tech)
AVIC Heavy Machinery Company Limited (AVIC Heavy Machinery)
AVIC Jonhon Optronic Technology Co., Ltd. (AVIC Jonhon)
AVIC Shenyang Aircraft Company Limited (AVIC Shenyang)
AVIC Xi'an Aircraft Industry Group Company Ltd. (AVIC Xi'an)
Beijing Megvii Technology Co., Ltd. (Megvii)
Beijing Zhidao Chuangyu Information Technology Co., Ltd. (Knownsec)
BGI Genomics Co., Ltd. (BGI)9
Chengdu JOUAV Automation Tech Co., Ltd. (JOUAV)
Chengdu M&S Electronics Technology Co., Ltd. (M&S Electronics)
China Aerospace Science and Industry Corporation Limited (CASIC)
China Communications Construction Company Limited (CCCC)
China Communications Construction Group (Limited) (CCCG)
China Construction Technology Co., Ltd. (CCTC)
China Electronics Corporation (CEC)
China Electronics Technology Group Corporation (CETC)
China General Nuclear Power Corporation (CGN)
China Marine Information Electronics Company Limited (China Marine Info Elec)
China Mobile Communications Group Co., Ltd. (China Mobile Comm)
China Mobile Limited (China Mobile)
China National Chemical Corporation Ltd. (ChemChina)
China National Chemical Engineering Group Corporation (CNCEC)
China National Nuclear Corporation (CNNC)
China National Offshore Oil Corporation (CNOOC)
China North Industries Group Corporation Limited (Norinco Group)
China Railway Construction Corporation Limited (CRCC)
China South Industries Group Corporation (CSGC)
China SpaceSat Co., Ltd. (China SpaceSat)
China State Construction Engineering Corporation Limited (CSCEC)
China State Construction Group Co.
China State Shipbuilding Corporation Limited (CSSC)
China Telecom Corporation Limited
China Telecom Group Co., Ltd. (China Telecom)
China Telecommunications Corporation
China Three Gorges Corporation (CTG)
China Unicom (Hong Kong) Limited (China Unicom HK)
China United Network Communications Group Co., Ltd. (China Unicom)
CloudWalk Technology Co., Ltd (CloudWalk)
CNOOC Limited
Costar Group Co., Ltd. (Costar)
CRRC Corporation Limited (CRRC)
Dawning Information Industry Co., Ltd. (Sugon)
Global Tone Communication Technology Co Ltd. (GTCOM)
Guizhou Aviation Technical Development Co., Ltd. (Guizhou Aviation Tech)
Hangzhou Hikvision Digital Technology Co., Ltd. (Hikvision)

Hesai Technology Co., Ltd. (Hesai)
Huawei Investment & Holding Co., Ltd. (Huawei Holding)
Huawei Technologies Co., Ltd. (Huawei)
IDG Capital Partners Co., Ltd. (IDG Capital)
Inner Mongolia First Machinery Group Co., Ltd. (Inner Mongolia)
Inspur Group Co., Ltd. (Inspur)
Jiangxi Hongdu Aviation Industry Co., Ltd. (Hongdu Aviation)
NetPosa Technologies, Ltd. (NetPosa)
Semiconductor Manufacturing International Corporation (SMIC)
Semiconductor Manufacturing International (Beijing) Corporation (SMIC Beijing)
Semiconductor Manufacturing International (Shenzhen) Corporation (SMIC Shenzhen)
Semiconductor Manufacturing International (Tianjin) Corporation (SMIC Tianjin)
Semiconductor Manufacturing South China Corporation (SMIC South China)
Shanghai Yitu Network Technology Co., Ltd. (Yitu)
ShenZhen Consys Science & Technology Co., Ltd. (Consys)
Shenzhen DJI Innovation Technology Co., Ltd. (DJI)
SMIC Holdings Limited (SMIC Holdings)
SMIC Northern Integrated Circuit Manufacturing (Beijing) Co., Ltd (SMIC NICM)
SMIC Semiconductor Manufacturing (Shanghai) Co., Ltd (SMIC Shanghai)
Wuhan Geosun Navigation Technology Co., Ltd. (Geosun)
Yangtze Memory Technologies Co., Ltd. (YMTC)
Zhejiang Dahua Technology Co., Ltd. (Dahua)
Zhonghang Electronic Measuring Instruments Company Limited (ZEMIC)

Dated: March 27, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–06895 Filed 4–1–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Publication of Housing Price Inflation Adjustment

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of housing price inflation adjustment for calendar year 2024.

SUMMARY: The DoD is announcing the 2024 rent threshold under the Servicemembers Civil Relief Act (SCRA). Applying the housing price inflation adjustment, the maximum monthly rental amount calculated as of January 1, 2024, is $9,812.12.

DATES: These housing price inflation adjustments are effective January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Yedinak, Office of the Under Secretary of Defense for Personnel and Readiness, (703) 571–0106.

SUPPLEMENTARY INFORMATION: The SCRA, as codified at 50 U.S.C. 3951, prohibits a landlord from evicting a Service member (or the Service member's family) from a residence during a period of military service, except by court order. The law as originally passed by Congress applied to dwellings with monthly rents of $2,400 or less. The SCRA requires the Secretary of Defense to adjust this amount annually to reflect inflation and to publish the new amount in the **Federal Register**. Applying the housing price inflation adjustment for 2024, the maximum monthly rental amount for 50 U.S.C. 3951(a)(1)(A)(2) as of January 1, 2024, is $9,812.12.

Dated: March 27, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–06896 Filed 4–1–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0028]

Proposed Collection; Comment Request

AGENCY: National Security Agency (NSA), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the NSA announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 3, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the NSA, 9800 Savage Rd., Suite 6272, Fort George G. Meade, MD 20755–6000, ATTN: Mr. Riyadh Feghali, or call 443–654–2478.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: National Security Agency Trust and Confidence Survey; OMB Control Number 0705–NSAT.

Needs and Uses: The purpose of this data collection is to obtain feedback about trust and confidence in the NSA. The data collected through this survey will contribute to the Agency's understanding of those that it serves and enable it to improve its communications and increase customers' trust and confidence in the Agency.

The target audience is customers, potential customers, delivery partners, and/or stakeholders of the NSA including academia, industry partners, and think tanks. Some respondents are considered to be part of the potential future workforce at the NSA.

Affected Public: Individuals or households.

Annual Burden Hours: 400.

Number of Respondents: 2,400.

Responses per Respondent: 1.

Annual Responses: 2,400.

Average Burden per Response: 10 minutes.

Frequency: Once.

Dated: March 26, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–06928 Filed 4–1–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0030]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 3, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Under Secretary of Defense for P&R, Office of Assistant Secretary of Defense for Health Affairs, 7700 Arlington Blvd., Falls Church, VA 22042–5101, ATTN: Kimberly Lahm, 703–681–8184.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Family Member Travel Screening; Form Number DD 3040, 3040–1, 3040–2, 3040–3, 3040–4; OMB Control Number 0704–0560.

Needs and Uses: The DD Forms 3040, 3040–1, 3040–2, 3040–3, and 3040–4 are used during the Family Member Travel Screening process when active duty Service members with Permanent Change of Station order request Command sponsorship for accompanied travel to remote or outside continental United States (OCONUS) installations. These forms document any special medical, dental, and/or educational needs of dependents accompanying the Service member to assist in determining the availability of care at a gaining installation. This standardized collection of information is required by the National Defense Authorization Act for Fiscal Year 2010 (NDAA FY2010), 10 U.S.C. 136 ''Under Secretary of Defense for Personnel and Readiness,'' and the DoD Instruction (DoDI) 1315.19, ''The Exceptional Family Member Program (EFMP).'' The NDAA FY2010 established the Office of Special Needs (OSN) and tasked OSN with developing, implementing, and overseeing comprehensive policies surrounding assignment and support for these military families. Additionally, per DoDI 1315.19, military departments are required to screen family members of active-duty Service members for special needs and to coordinate assignments for Service members enrolled in the EFMP to verify if necessary medical and/or educational services are available at the next assignment.

Affected Public: Individuals or households.

Annual Burden Hours: 89,011.

Number of Respondents: 267,032.

Responses per Respondent: 1.

Annual Responses: 267,032.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

Dated: March 26, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–06918 Filed 4–1–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Arboretum Project, in Rancho Cordova, Sacramento County, CA, Permit Application Number SPK–2007–00133; Withdrawal

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers, Sacramento District (Corps) is withdrawing its notice of intent (NOI) to prepare an environmental impact statement (EIS) for the Arboretum Project in Sacramento County, California.

DATES: The notice of intent to prepare an EIS published in the **Federal Register** on December 16, 2008 (73 FR 76348), is withdrawn as of April 2, 2024.

ADDRESSES: U.S. Army Corps of Engineers, Sacramento District, Regulatory Division (CESPK–RD), 1325 J Street, Sacramento, CA 95814–2992.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be directed to Regional Regulatory Permit Specialist, Leah M. Fisher, at (916) 557–6639 or *leah.m.fisher@usace.army.mil.* Please refer to identification number SPK–2007–00133.

SUPPLEMENTARY INFORMATION: An NOI to prepare an EIS for the Arboretum Project was published in the **Federal Register** on December 16, 2008 (73 FR 76348). The proposed project requires Department of the Army authorization under section 404 of the Clean Water Act. Since publication of the NOI, the Corps has requested additional information from the project sponsor to continue the EIS process. To date, no additional information has been received. As a result, the Corps has withdrawn the permit application and is terminating the EIS process, in accordance with Corps regulations at 33 CFR part 230, appendix C(2) and 33 CFR part 325, appendix B(8)(g).

David R. Hibner,

Programs Director.

[FR Doc. 2024–06909 Filed 4–1–24; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Proposed River Islands Project, in San Joaquin County, CA; Withdrawal

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers, Sacramento District (Corps) is withdrawing its notice of intent (NOI) to prepare an environmental impact statement (EIS) for the River Islands Project in San Joaquin County, California.

DATES: The notice of intent to prepare an EIS published in the **Federal Register** on June 10, 2005 (70 FR 33885), is withdrawn as of April 2, 2024.

ADDRESSES: U.S. Army Corps of Engineers, Sacramento District, Regulatory Division (CESPK–RD), 1325 J Street, Sacramento, CA 95814–2992.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be directed to Regional Regulatory Permit Specialist, Leah M. Fisher, at (916) 557–6639 or *leah.m.fisher@usace.army.mil.* Please refer to identification number SPK–1995–00412.

SUPPLEMENTARY INFORMATION: An NOI to prepare an EIS for the Arboretum Project was published in the **Federal Register** on June 10, 2005 (70 FR 33885). The proposed project required Department of the Army authorization under section 404 of the Clean Water Act. Since publication of the NOI, the applicant has revised their proposed action to avoid all impacts to waters of the United States. As a result, the Corps has determined no Department of the Army permit is required. As such, the Corps is terminating the EIS process, in accordance with Corps regulations at 33 CFR part 230, appendix C(2) and 33 CFR part 325, appendix B(8)(g).

David R. Hibner,

Programs Director.

[FR Doc. 2024–06908 Filed 4–1–24; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2024–HQ–0005]

Proposed Collection; Comment Request

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Naval Health Research Center announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 3, 2024.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to OPNAV Forms/Information Collections Office (DNS–14), 2000 Navy Pentagon, Room 4E563, Washington, DC 20350–2000, ATTN: Ms. Jaylin Jones, or call 703–614–7585.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Male Survivors of Sexual Assault—Investigating Challenges Around Seeking Help; OMB Control Number 0703–MSIC.

Needs and Uses: Given the devastating effects of Military Sexual Trauma (MST) and limited information on male MST specifically, the U.S. Congress specified a requirement to improve the prevention of and response to sexual trauma affecting male service members in the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92). Furthermore, the Department of Defense (DoD) developed a formalized plan of action to improve prevention and response efforts for male MST. Despite these efforts and consistent with prior research, DoD reports found that active duty men are substantially less likely to report MST relative to active duty women counterparts. As part of the DoD-wide effort to promote help-seeking for sexual assault survivors, the DoN Office of Force Resiliency (OFR) developed and recently updated the Prevention Plan of Action (aka Prevention Plan of Action 2.0, 2022–2024; PPoA 2.0). The PPoA 2.0 is a strategy framework leveraging public health science in military environments to prevent sexual assault in the military and improve response efforts. As part of this initiative, OFR commissioned this study (Agreement #NMR–24–11717) to investigate the help-seeking among men who experienced military sexual violence (*i.e.,* sexual assault or sexual harassment). The present study addresses this requirement by conducting interviews with men who have experienced military sexual violence.

Affected Public: Individuals or households.

Annual Burden Hours: 23.

Number of Respondents: 20.

Responses per Respondent: 1.

Annual Responses: 20.

Average Burden per Response: 70 minutes.

Frequency: Once.

Dated: March 26, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–06916 Filed 4–1–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD23–6–000]

Commission Information Collection Activities Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

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 proposed revisions of the currently approved information collection, FERC–725A (Mandatory Reliability Standards for the Bulk-Power System) and FERC–725Z (Mandatory Reliability Standards: IRO Reliability Standards) as it affects information collection requirements associated with proposed on Reliability Standards IRO–010–5 and TOP–003–6.1. The 60-day notice comment period ended on February 12, 2024, with one comment received.

DATES: Comments on the collection of information are due May 2, 2024.

ADDRESSES: Send written comments on FERC–725A and 725Z to OMB through *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Numbers 725A (1902–0244) and 725Z (1902–0276) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. RD23–6–000) by one of the following methods: Electronic filing through *https://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, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection. *FERC submissions* must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *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 *https://www.ferc.gov/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Jean Sonneman may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–6362.

SUPPLEMENTARY INFORMATION:

Title: FERC–725A (Mandatory Reliability Standards for the Bulk-Power System) and FERC–725Z (Mandatory Reliability Standards: IRO Reliability Standards) as it affects information collection requirements associated with proposed on Reliability Standards IRO–010–5 and TOP–003–6.1.

OMB Control No.: FERC–725A (1902–0244) FERC–725Z (1902–0276).

Type of Request: Approval of FERC–725A and FERC–725Z information collection requirements associated with proposed on Reliability Standards IRO–010–5 and TOP–003–6.1.

Abstract: This Notice pertains to the FERC–725A and FERC–725Z information collection requirements. On September 21, 2023, the North American Electric Reliability Corporation (NERC) filed a petition (NERC Petition) seeking approval of proposed Reliability Standards IRO–010–5 (Reliability Coordinator Data and Information Specification and Collection), and TOP–003–6.1 (Transmission Operator and Balancing Authority Data and Information Specification and Collection), the associated Violation Risk Factors and Violation Severity Levels, and the proposed implementation plan including the retirement of the currently-effective Reliability Standards IRO–010–4 and TOP–003–5.

NERC states in its petition that it revised both standards so that the language is parallel in form and function and uses similar vernacular in describing the underlying requirements. The proposed revisions allow applicable entities to use available technologies, integrate new technologies, and define expectations for data and information exchange.[1] The modifications to these two standards originated through the second phase of NERC's Standards Efficiency Review (SER) to consolidate information/data exchange requirements.[2]

NERC's petition was noticed on September 26, 2023, with interventions, comments, and protests due on or before October 26, 2023.

NERC's uncontested filing is hereby approved pursuant to the relevant authority delegated to the Director, Office of Electric Reliability under 18 CFR 375.303(a)(2)(i) (2023).

The following tables were modified to use annualized totals due to the comments received.

Revised TOP–003–6.1, 725A in table below:

[1] NERC Petition at 13.

[2] *See* NERC, *SER Phase 2 Recommendations Working Document,* (Aug. 2021), *https://www.nerc.com/pa/Stand/Standards%20Efficiency%20Review%20DL/SER_Phase_2_Recommendations_Working_Document_08062021.xlsx.*

TOP–003–6.1—TRANSMISSION OPERATOR AND BALANCING AUTHORITY DATA AND INFORMATION SPECIFICATION AND COLLECTION ANNUAL

Type of entity	Number of respondents [3] (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hrs. & cost per response (4) [4]	Total annual burden hours & cost (3) * (4) = (5)
FERC–725A, OMB Control No. 1902–0244					
TOP	166	1	166	80 hrs.; $5,429.60	13,280 hrs.; $901,313.60.
BA	98	1	98	80 hrs.; $5,429.60	7,840 hrs.; $532,100.80.
TO	323	1	323	8 hrs.; $542.96	2,584 hrs.; $175,376.08.
GOP	1,002	1	1,002	8 hrs.; $542.96	8,016 hrs.; $544,045.92.
GO	1,164	1	1,164	8 hrs.; $542.96	9,312 hrs.; $632,005.44.
DP	301	1	301	8 hrs.; $542.96	2,408 hrs.; $163,430.96.
FERC–725A for TOP–003–6.1 Total Annual.					43,440 hrs.; $2,948,272.80.

Revised IRO–010–5, 725Z table:

IRO–010–5—RELIABILITY COORDINATOR DATA AND INFORMATION SPECIFICATION AND COLLECTION ANNUAL

Type of entity	Number of respondents [5] (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden & cost per response (4) [6]	Total annual burden hours & total annual cost (3) * (4) = (5)
FERC–725Z, OMB Control No. 1902–0276					
RC	12	1	12	80 hrs.; $5,429.60	960 hrs.; $65,155.20.
BA	98	1	98	8 hrs.; $542.96	784 hrs.; $53,210.08.
GO	1,164	1	1,164	8 hrs.; $542.96	9,312 hrs.; $632,005.44.
GOP	1,002	1	1,002	8 hrs.; $542.96	8,016 hrs.; $544,045.92.
TOP	166	1	166	8 hrs.; $542.96	1,328 hrs.; $90,131.36.
TO	323	1	323	8 hrs.; $542.96	2,584 hrs.; $175,376.08.
DP	301	1	301	8 hrs.; $542.96	2,408 hrs.; $163,430.96.
FERC–725Z for IRO–010–5 Annual.					25,392 hrs.; $1,723,355.04.

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.

The one comment received offers that the estimates appear to capture burden estimates and costs of initial implementation only within years one and two and does not capture requirements beyond year three and forward. Staff reviewed the comment and updated the estimates to reflect the reporting burden to be an annual burden, instead of just for years one and two. Tables for 725A (TOP Reliability Standards) and 725Z (IRO Reliability Standards) have been updated to show the change with the original estimates, followed by the revised table for both collections.

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

[3] Values represent unique U.S. entities as based on the NERC compliance registry information as of September 22, 2023.

[4] The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2023, for 75% of the average of an Electrical Engineer (17–2071) $77.29/hr., 77.29 × .75 = 57.9675 ($57.97-rounded) ($57.97/hour) and 25% of an Information and Record Clerk (43–4199) $39.58/hr., $39.58 × .25% = 9.895 ($9.90 rounded) ($9.90/hour), for a total ($57.97 + $9.90 = $67.87/hour).

[5] Values represent unique US entities as based on the NERC compliance registry information as of September 22, 2023.

[6] The estimated hourly cost (salary plus benefits) is a combination based on the Bureau of Labor Statistics (BLS), as of 2022, for 75% of the average of an Electrical Engineer (17–2071) $77.29/hr., 77.29 × .75 = 57.9675 ($57.97-rounded) ($57.97/hour) and 25% of an Information and Record Clerk (43–4199) $39.58/hr., $39.58 × .25% = 9.895 ($9.90 rounded) ($9.90/hour), for a total ($57.97 + $9.90 = $67.87/hour).

contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06869 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2715–026]

Kaukauna Utilities; Notice of Intent To Prepare an Environmental Assessment

On July 22, 2022, Kaukana Utilities (Kaukauna) filed a relicense application for the 6.2-megawatt Combined Locks Hydroelectric Project No. 2715 (project). The project is located on the Lower Fox River in the Village of Combined Locks and the Village of Little Chute, Outagamie County, Wisconsin.

In accordance with the Commission's regulations, on January 16, 2024, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to relicense the project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA	August 2024.[1]
Comments on EA	October 2024.

Any questions regarding this notice may be directed to Kelly Wolcott at (202) 502–6480 or *kelly.wolcott@ferc.gov.*

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06873 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–60–000]

Northern Natural Gas; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Northern Lights 2025 Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document, that will discuss the environmental impacts of the Northern Lights 2025 Expansion Project involving construction and operation of facilities by Northern Natural Gas (Northern) in Freeborn, Houston, and Washington Counties, Minnesota, and Monroe County, Wisconsin. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues.

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) (2023) require that EAs be completed within 1 year of the Federal action agency's decision to prepare an EA. *See* National Environmental Policy Act, 42 U.S.C. 4321 *et seq., as amended by* section 107(g)(1)(B)(iii) of the Fiscal Responsibility Act of 2023, Public Law 118–5, section 4336a, 137 Stat. 42.

Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on April 25, 2024. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on February 16, 2024, you will need to file those comments in Docket No. CP24–60–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the

Commission has no jurisdiction over these matters.

Northern provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. 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; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP24–60–000) on your letter. 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.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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.*

Summary of the Proposed Project

Northern proposes to construct and operate about 8.6 miles of pipeline extensions, and associated ancillary and auxiliary equipment in Freeborn, Houston, and Washington Counties, Minnesota, and Monroe County, Wisconsin. The Northern Lights 2025 Expansion Project would provide about 46 million standard cubic feet of natural gas per day to Northern's Market Area. According to Northern its project would serve residential, commercial, and industrial customer market growth.

The Northern Lights 2025 Expansion Project would consist of the following facilities:

- 3.0-mile-long extension of its 36-inch-diameter Lake Mills to Albert Lea E Line;
- 2.43-mile-long extension of its 30-inch-diameter Elk River 3rd Branch Line;
- 1.91-mile-long extension of its 30-inch-diameter Farmington to Hugo C-Line;
- 1.28-mile-long extension of its 8-inch-diameter Tomah Branch Line Loop;
- one pig new launcher,[1] new valves and piping inside its existing Hugo Compressor Station;
- minor piping modifications within its existing La Crescent Compressor Station;
- relocation of one pig receiver facility;
- three new valve settings and associated valves and piping;
- removal of three existing tie-in valve settings;
- and other appurtenant facilities.

[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would disturb a total of about 177.2 acres of land. Following construction, Northern would maintain about 47.9 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. About 21.2 percent of the construct workspace, and 48.8 percent of the proposed operational area would overlap existing rights-of-way.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- environmental justice;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

Notice of Intent to Prepare an EIS/ Notice of Schedule will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [3] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP24–60–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06874 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–567–000.
Applicants: Cheyenne Connector, LLC.
Description: Compliance filing: CC 2024–03–26 Annual L&U Report to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5092.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–568–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Compliance filing: TPC 2023–03–26 2023 Annual Purchases and Sales Report to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5100.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–569–000.
Applicants: Rockies Express Pipeline LLC.
Description: Compliance filing: REX 2023–03–26 Annual Purchases and Sales Report to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5106.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–570–000.
Applicants: East Cheyenne Gas Storage, LLC.
Description: § 4(d) Rate Filing: ECGS 2024–03–26 GT&C Section 13 Revisions to be effective 4/26/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5123.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–571–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Rate Schedule GSS/LSS Fuel Retention Percentage Tracker Filing—2024 to be effective 4/1/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5133.
Comment Date: 5 p.m. ET 4/8/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in

accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06875 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR24–61–000.
Applicants: Southwest Gas Corporation.
Description: 284.123(g) Rate Filing: Amended SOC for Blanket Certificate to be effective 3/26/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5230.
Comment Date: 5 p.m. ET 4/16/24.
284.123(g) Protest: 5 p.m. ET 5/28/24.

Docket Numbers: RP24–572–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: 4(d) Rate Filing: Negotiated Rate Agreements Update (Pioneer Apr 2024) to be effective 4/1/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5207.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–573–000.
Applicants: Northern Border Pipeline Company.
Description: 4(d) Rate Filing: Negotiated Rate Agreements—BP Energy 274725 and Sequent TL369_101322 to be effective 4/1/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5208.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–574–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: 4(d) Rate Filing: Vol. 2—Neg. and Conforming Rate Agreements—Tenaska PLS to be effective 4/1/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5218.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–575–000.
Applicants: Gulf Shore Energy Partners, LP.
Description: 4(d) Rate Filing: Gulf Shore Energy—Tariff Revisions to be effective 5/1/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5225.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–576–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Compliance filing: TPC 2024–03–26 Penalty Revenues Refund Report to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5231.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–577–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: 4(d) Rate Filing: Non-Conforming Amendment Filing (Phillips 66) to be effective 5/1/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5243.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–578–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 4(d) Rate Filing: 3.27.24 Negotiated Rates—Macquarie Energy LLC R–4090–31 to be effective 4/1/2024.
Filed Date: 3/27/24.
Accession Number: 20240327–5062.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–579–000.
Applicants: Horizon Pipeline Company, L.L.C.
Description: Compliance filing: Horizon Penalty Revenue Crediting Report for Year 2023 to be effective N/A.
Filed Date: 3/27/24.
Accession Number: 20240327–5118.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–580–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: Compliance filing: Penalty Revenue Crediting Report July Through December 2023 to be effective N/A.
Filed Date: 3/27/24.
Accession Number: 20240327–5119.
Comment Date: 5 p.m. ET 4/8/24.

Docket Numbers: RP24–581–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: 4(d) Rate Filing: FTS Negotiated Rate (DTE, Gunvor, Mercuria) to be effective 4/1/2024.
Filed Date: 3/27/24.
Accession Number: 20240327–5125.
Comment Date: 5 p.m. ET 4/8/24.

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: RP24–457–002.
Applicants: Tallgrass Interstate Gas Transmission, LLC.
Description: Tariff Amendment: TIGT 2024–03–27 RP24–457 Second Amendment to be effective 4/1/2024.
Filed Date: 3/27/24.
Accession Number: 20240327–5128.
Comment Date: 5 p.m. ET 4/3/24.

Any person desiring to protest in any 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.*

Dated: March 27, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06950 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. 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. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. P–15332–000	03/13/2024	FERC Staff.[1]
2. P–14861–002	03/20/2024	FERC Staff.[2]
Exempt:		
1. P–2701–061	03/22/2024	FERC Staff.[3]

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06868 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2737–027]

Green Mountain Power Corporation; Notice of Application for a Non-Capacity Amendment of License Accepted for Filing, 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:* Non-Capacity Amendment of License.

b. *Project No:* 2737–027.

c. *Date Filed:* June 14, 2023 and supplemented on August 15, 2023.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Middlebury Lower Hydroelectric Project.

f. *Location:* The project is located on the Otter Creek in the towns of Middlebury and Weybridge, Addison County, Vermont. The project does not occupy any Federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jason L. Lisai, Green Mountain Power Corporation, 163 Acorn Lane, Colchester, VT 05446–6611, (802) 655–8723, *jason.lisai@greenmountainpower.com.*

i. *FERC Contact:* Aneela Mousam, (202) 502–8357, *aneela.mousam@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 l 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 25, 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

[1] Emailed comments dated 3/7/24 of Ryan Walt.

[2] Memorandum of email communication with the U.S. Fish and Wildlife Services.

[3] Emailed comments dated 3/20/24 of Steve Murphy.

name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2737–027. 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 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:* Green Mountain Power Corporation (licensee) requests Commission approval to replace the existing Unit 3 turbine runner with a new turbine runner. The upgrades would decrease the project's authorized installed capacity from 2,250 kilowatts (kW) to 1,800 kW and increase the maximum hydraulic capacity from 945 cubic feet per second (cfs) to 1,052 cfs. The increased efficiency of the turbine unit would result in an increase in annual energy generation. The licensee does not propose any other structural modifications to the powerhouse or any other project structures. During construction, Units 1 and 2 would remain operational, and any excess river flow would pass over the project dam into the bypass reach. In addition, the licensee states all construction activities associated with the proposed amendment would occur within the existing powerhouse and would be isolated from the river. Access to the powerhouse area for delivery of the Unit 3 turbine runner and construction vehicles would be via the existing access road, and would not require any ground disturbance. The licensee does not propose any changes to the licensed project operations during or after turbine runner replacement.

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 *FERCOnlineSupport@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.*

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06872 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15327–000]

New England Hydropower Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

a. On October 11, 2023, New England Hydropower Company, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Middlebury Falls Hydroelectric Project No. 15327 (project), to be located on Otter Creek in Addison County, Vermont. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

b. *Project Description:* The proposed project would consist of the following: (1) a new 12-foot-wide, 60-foot-long, and 6-foot-deep intake channel equipped with a 12-foot-wide, 6-foot-high sluice gate and 20-foot-wide, 20-foot long trashrack; (2) a new 30-foot-wide, 40-foot-long, 50-foot-tall powerhouse that would include a new 500-kilowatt Kaplan turbine-generator unit; (3) a new powerhouse access way; (4) a new transformer and a new 150-foot-long underground transmission line that connect the project to the electric distribution grid; and (5) appurtenant facilities. The project would use the natural flow of Otter Creek and would not include a dam or impoundment. The estimated annual generation of the project would be 3,100 megawatt-hours.

c. *Applicant Contact:* Mr. Michael Kerr, New England Hydropower Company, LLC, 100 Cummings Center Drive, Suite 451C, Beverly, MA 01915;

telephone at (978) 360–2547; email at *michael@nehydropower.com.*

d. *FERC Contact:* Arash Barsari, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–6207; email at *Arash.JalaliBarsari@ferc.gov.*

e. The preliminary permit application has been accepted for filing.

f. Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice, May 25, 2024.

Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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 at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15327–000.

g. 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 filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

h. More information about this project, including a copy of the application, can be viewed on the Commission's website (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number (P–15327) in the docket number field to access the document. For assistance, please contact FERC Online Support.

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06870 Filed 4–1–24; 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 exempt wholesale generator filings:

Docket Numbers: EG24–144–000.
Applicants: Groton BESS 1 LLC.
Description: Groton BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/26/24.
Accession Number: 20240326–5200.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: EG24–145–000.
Applicants: Holden BESS 1 LLC.
Description: Holden BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/26/24.
Accession Number: 20240326–5202.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: EG24–146–000.
Applicants: Paxton BESS 1 LLC.
Description: Paxton BESS 1 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/26/24.
Accession Number: 20240326–5203.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: EG24–147–000.
Applicants: Groton BESS 2 LLC.
Description: Groton BESS 2 LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/26/24.
Accession Number: 20240326–5205.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: EG24–148–000.
Applicants: Zier Solar, LLC.
Description: Zier Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/26/24.
Accession Number: 20240326–5229.
Comment Date: 5 p.m. ET 4/16/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–2154–003.
Applicants: Sayreville Power, LLC.
Description: Compliance filing: Notice of Cancellation, Informational Filing, and Req. for Limited Tariff Waiver to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5189.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: ER24–266–001.
Applicants: Solar of Alamosa LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5149.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: ER24–837–000.
Applicants: Union Electric Company.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 3/26/24.
Accession Number: 20240326–5215.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: ER24–1615–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amended ISA; Service Agreement No. 6429; AC2–023 to be effective 5/27/2024.
Filed Date: 3/25/24.
Accession Number: 20240325–5255.
Comment Date: 5 p.m. ET 4/15/24.

Docket Numbers: ER24–1616–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Notice of Cancellation of WMPA, SA No. 6847; AF2–102 re: withdrawal to be effective 5/27/2024.
Filed Date: 3/25/24.
Accession Number: 20240325–5296.
Comment Date: 5 p.m. ET 4/15/24.

Docket Numbers: ER24–1617–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: AMD ISA, Service Agreement No. 6480; AC2–154/AD2–060 to be effective 5/27/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5078.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: ER24–1618–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2024–03–26_SA 1375 Termination of ATC-White Pine 3rd Rev GIA (J143) to be effective 5/26/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5091.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: ER24–1619–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2024–03–26_SA 3679 Termination of OTP–EDF Renewables E&P (J1456) to be effective 1/11/2023.
Filed Date: 3/26/24.
Accession Number: 20240326–5095.
Comment Date: 5 p.m. ET 4/16/24.

Docket Numbers: ER24–1620–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2024–03–26_SA 743 ATC–WPSC 3rd Rev. G–TIA to be effective 3/19/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5104.
Comment Date: 5 p.m. ET 4/16/24.
Docket Numbers: ER24–1621–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to CTOA re: FE Service Co. TO CTOA Signature Date to be effective 5/26/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5107.
Comment Date: 5 p.m. ET 4/16/24.
Docket Numbers: ER24–1622–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Filing of a Contribution in Aid of Construction Agreement to be effective 5/26/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5169.
Comment Date: 5 p.m. ET 4/16/24.
Docket Numbers: ER24–1623–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, SA No. 5591; Queue No. AE2–054 (amend) to be effective 5/26/2024.
Filed Date: 3/26/24.
Accession Number: 20240326–5186.
Comment Date: 5 p.m. ET 4/16/24.
Docket Numbers: ER24–1624–000.
Applicants: Sayreville Power, LLC.
Description: Tariff Amendment: Notice of Cancellation, Informational Filing, and Req. for Limited Tariff Waiver to be effective 12/31/9998.
Filed Date: 3/26/24.
Accession Number: 20240326–5197.
Comment Date: 5 p.m. ET 4/16/24.

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.

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Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06876 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6066–041]

McCallum Enterprises I, Limited Partnership and Shelton Canal Company; Notice Rejecting Application, Waiving Regulations, and Soliciting Applications

On March 1, 2024, McCallum Enterprises I, Limited Partnership and Shelton Canal Company (McCallum and Shelton), co-licensees for the Derby Dam Hydroelectric Project No. 6066 (project), filed an application for a new license for the project pursuant to section 15(c)(1) of the Federal Power Act (FPA). The license application was untimely filed and is hereby rejected.[1]

The project is located on the Housatonic River in Fairfield and New Haven Counties, Connecticut. The project consists of: (a) a 23.7-foot-high, 675-foot-long dam made of concrete capped cut stone with flashboards of varying heights, ranging from 1.8-foot-high to 2.2-foot-high, and a crest elevation of 25.2 feet National Geodetic Vertical Datum of 1988 (NGVD 88); (b) a 400-foot-long earth dike with a maximum height of 10 feet, located at the east abutment and oriented in a northwest-southwest direction; (c) a reservoir (Lake Housatonic) with a normal maximum water surface elevation of 25.2 feet NGVD 88 and a usable storage capacity of 500 acre-feet; (d) a gatehouse (Derby gatehouse) and 2,135 foot-long, 40-foot-wide canal paralleling the east bank of the river; (e) a gatehouse (Shelton gatehouse) and 130-foot-long, 94-foot-wide headrace channel extending downstream from the dam; (f) a navigation lock located at the west abutment, which constitutes the first 70 feet of the Shelton canal; (g) a powerhouse (Shelton powerhouse) at the west abutment, in the existing Shelton canal and lock structure, and located approximately 130 feet downstream of the Shelton gatehouse, containing two horizontal A–C tube Kaplan turbines with two direct drive generators with a total rated capacity of 7.8 megawatts and a rated flow of 4,600 cubic feet per second; (h) a 775-foot-long, 13.8 kilovolt underwater transmission line tying into the existing United Illuminating Company system; and (i) appurtenant facilities.

As a result of the rejection of McCallum and Shelton's application and pursuant to section 16.25 of the Commission's regulations, the Commission is soliciting license applications from potential applicants. This solicitation is necessary because the deadline for filing an application for a new license and any competing license applications, pursuant to section 16.9 of the Commission's regulations, was February 29, 2024, and no other license applications for this project were filed. With this notice, we are waiving those parts of section 16.24(a) and 16.25(a) which bar an existing licensee that missed the two-year application filing deadline from filing another application. Further, because McCallum and Shelton completed the consultation requirements pursuant to Part 4 of the Commission's regulations, we are waiving the consultation requirements in section 16.8 for the existing licensees. Consequently, McCallum and Shelton will be allowed to refile a license application and compete for the license, and the incumbent preference established by the FPA section 15(a)(2) will apply.[2]

The licensees are required to make available certain information described in section 16.7 of the regulations. For

[1] Eveready Machinery Company, Inc. was issued a major license for the project on March 25, 1986, for a term of 40 years, effective the first day of the month in which the order was issued. *See Eveready Machinery Company, Inc.,* 34 FERC ¶ 62,578 (1986). Therefore, the license would expire on February 28, 2026, and the statutory deadline for filing a new license application was February 29, 2024. *See* FPA § 15(c)(1), 16 U.S.C. 808(c)(1). The Commission received the application via the internet at 12:09 a.m. Eastern Time on March 1, 2024.

[2] *See Pacific Gas and Electric Co.,* 98 FERC ¶ 61,032 (2002), *reh'g denied,* 99 FERC ¶ 61,045 (2002), *aff'd, City of Fremont* v. *FERC,* 336 F.3d 910 (9th Cir. 2003).

more information from the licensees, please contact Mr. Joseph W. Szarmach Jr., Managing Partner, McCallum Enterprises I Limited Partnership, 2874 Main Street, Stratford, Connecticut 06614, (203) 386–1745.

Pursuant to section 16.25(b), a potential applicant that files a notice of intent within 90 days from the date of this notice: (1) may apply for a license under Part I of the FPA and Part 4 (except section 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with sections 16.8 and 16.10 of the Commission's regulations.

Questions concerning this notice should be directed to Brandi Welch-Acosta, (202) 502–8964 or *Brandi.Welch-Acosta@ferc.gov.*

Dated: March 26, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06871 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6115–016]

Pyrites 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 Pyrites Hydroelectric Project No. 6115 (project). The project is located on the Grass River in St. Lawrence County, 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,* 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.

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–6115–016.

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.*

For further information, contact Joshua Dub at 202–502–8138 or *Joshua.Dub@ferc.gov.*

Dated: March 27, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06952 Filed 4–1–24; 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 exempt wholesale generator filings:

Docket Numbers: EG24–149–000.
Applicants: SBESS TX 5, LLC.
Description: SBESS TX 5, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/27/24.
Accession Number: 20240327–5053.
Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: EG24–150–000.
Applicants: SBESS TX 6, LLC.
Description: SBESS TX 6, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/27/24.
Accession Number: 20240327–5054.
Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: EG24–151–000.
Applicants: SBESS TX 7, LLC.
Description: SBESS TX 7, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/27/24.
Accession Number: 20240327–5056.
Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: EG24–152–000.
Applicants: Cottonwood Bayou Solar, LLC.
Description: Cottonwood Bayou Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/27/24.
Accession Number: 20240327–5058.
Comment Date: 5 p.m. ET 4/17/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–2022–002.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing: Compliance Filing Appendix G (Wireless Carriers) ER22–2022 (WDT SA 275) to be effective 7/12/2022.
Filed Date: 3/27/24.
Accession Number: 20240327–5080.
Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER23–1928–001.
Applicants: Appaloosa Solar I, LLC.
Description: Notice of Non-Material Change in Status of Appaloosa Solar I, LLC.
Filed Date: 3/27/24.
Accession Number: 20240327–5292.
Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER24–784–001.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.17(b): Kilgeng (Kilgeng BESS Project) LGIA Deficiency Response to be effective 12/15/2023.

Filed Date: 3/27/24.

Accession Number: 20240327–5160.

Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER24–1549–001.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: Tariff Amendment: American Electric Power Service Corporation submits tariff filing per 35.17(b): Amendment to Facilities Agreement re: ILDSA, SA No. 5120 to be effective 5/20/2024.

Filed Date: 3/27/24.

Accession Number: 20240327–5137.

Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER24–1625–000.

Applicants: NSTAR Electric Company.

Description: Tariff Amendment: Cancellation of NSTAR–NEMC Transfer Agreement (ENE Use Rights) to be effective 3/27/2024.

Filed Date: 3/27/24.

Accession Number: 20240327–5072.

Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER24–1626–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Revisions to Schedule 12—Appendix A, Feb. 2024 RTEP, 30-Day Comment Period to be effective 6/26/2024.

Filed Date: 3/27/24.

Accession Number: 20240327–5098.

Comment Date: 5 p.m. ET 4/26/24.

Docket Numbers: ER24–1627–000.

Applicants: Southern California Edison Company.

Description: 205(d) Rate Filing: SCE Revision to Formula Rate Tariff Authorized 2024 PBOPs Expense Amount to be effective 1/1/2024.

Filed Date: 3/27/24.

Accession Number: 20240327–5132.

Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER24–1628–000.

Applicants: California Independent System Operator Corporation.

Description: 205(d) Rate Filing: 2024–03–27 WEIM Implementation Agreement—BHE Montana to be effective 5/27/2024.

Filed Date: 3/27/24.

Accession Number: 20240327–5181.

Comment Date: 5 p.m. ET 4/17/24.

Docket Numbers: ER24–1629–000.

Applicants: Andro Hydro, LLC.

Description: Andro Hydro, LLC submits the Undivided Ownership, Operation and Maintenance Agreement, to be effective February 12, 2024.

Filed Date: 3/13/24.

Accession Number: 20240313–5240.

Comment Date: 5 p.m. ET 4/3/24.

Docket Numbers: ER24–1630–000.

Applicants: Otter Tail Power Company.

Description: 205(d) Rate Filing: Notice of Cancellation of Remedial Action Scheme Service to be effective 5/31/2024.

Filed Date: 3/27/24.

Accession Number: 20240327–5201.

Comment Date: 5 p.m. ET 4/17/24.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES24–26–000.

Applicants: Consumers Energy Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Consumers Energy Company.

Filed Date: 3/26/24.

Accession Number: 20240326–5277.

Comment Date: 5 p.m. ET 4/16/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 27, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–06951 Filed 4–1–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2024–0160; FRL–11814–01–OCSPP]

U.S. Government Accountability Office (GAO): Disclosure of Information Potentially Containing Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or the Agency) is providing notice of disclosure to all potentially affected businesses under the Toxic Substances Control Act (TSCA) that have submitted information to EPA pursuant to TSCA section 5. In response to a request by the U.S. Government Accountability Office (GAO), EPA will disclose information to GAO which has been submitted to the Agency under TSCA section 5, and which is claimed to be, or has been determined to be, Confidential Business Information (CBI). The information to be disclosed includes portions of at least several TSCA section 5 submissions, which may include information that is claimed as, or has been determined to be, CBI.

DATES: EPA will disclose the material discussed in this document to GAO, including any CBI therein, no earlier than April 12, 2024. At the conclusion of GAO's review, all CBI-claimed documents will be destroyed, deleted, or returned to EPA if applicable.

FOR FURTHER INFORMATION CONTACT: Jessica Barkas, Program Management and Operations Division (PMOD) 7407M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 250–8880; email address: *barkas.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION: In connection with a GAO review, EPA received a request under 40 CFR 2.209(b) from GAO for certain records submitted to EPA under TSCA from October 1, 2021, through the date of this notice. According to the request, GAO is initiating a review of EPA's practices for managing and accessing the performance of EPA's New Chemicals Review program under TSCA section 5.

To fulfill these objectives, GAO has requested access to records, data, and documents submitted to EPA pursuant to TSCA, 15 U.S.C. 2601 *et seq.,* the Pollution Prevention Act (PPA), 42 U.S.C. 13101 *et seq.,* and other applicable statutes administered by EPA's Office of Pollution Prevention and Toxics (OPPT) from October 1, 2021, through the date of this notice. The requested information may include submissions that have been claimed as, or have been determined to be, CBI. GAO has not indicated which or how many TSCA section 5 submissions they may need to access, but their planned review of this information will likely require the viewing and analysis of some features of unredacted submissions that have been claimed as CBI. Consequently, GAO staff may view CBI material in TSCA section 5 submissions incidental to their review and examination of EPA's New Chemical Review program. EPA also intends to disclose to GAO any information related to data systems that house new chemicals review information to assess the reliability of system data.

To fulfill the request, EPA expects to provide GAO temporary access to the requested TSCA section 5 submissions via remote access to EPA's TSCA CBI LAN beginning as early as 10 days following this notice. At this point, EPA does not anticipate transferring physical custody of any requested information or documents to GAO.

The disclosure of CBI is limited to GAO and further disclosure is generally restricted by 31 U.S.C. 716(e) and subject to criminal penalties under 18 U.S.C. 1905. At the conclusion of the GAO review, all CBI-claimed documents will be destroyed, deleted, or returned to EPA, if applicable.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: March 27, 2024.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2024–06926 Filed 4–1–24; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, April 11, 2024.

PLACE: You may observe this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit *FCA.gov,* select ''Newsroom,'' then select ''Events.'' From there, access the linked ''Instructions for board meeting visitors'' and complete the described registration process.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

- Approval of Minutes for March 14, 2024
- Quarterly Report on Economic Conditions and Farm Credit System Condition and Performance

CONTACT PERSON FOR MORE INFORMATION: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2024–07063 Filed 3–29–24; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0686, 3060–0944 and 3060–1163; FR ID 211755]

Information Collections 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.''

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before Thursday, May 2, 202.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. 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, and (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: 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.

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 No.: 3060–0686.

Title: International Section 214 Authorizations, 47 CFR 63.10–63.25, 1.40001, 1.40003.

Form No.: ITC–214—International Section 214 Authorization Application (revising form); ITC–ASG/TC—International Section 214 Authorization Assignment or Transfer of Control of Authorization (revising form); ITC–FCN—International Section 214 Authorization Foreign Carrier Notification (revising form); ITC–STA—International Section 214 Authorization Special Temporary Authority (revising form); ITC–AMD—International Section 214 Authorization Amendment (new form); ITC–MOD—International Section 214 Authorization Modification (new form); ITC–RPT—International Section 214 Authorization Dominant Carrier Quarterly Reports (new form); ITC–WAV—International Section 214 Authorization Waiver Request (new form); ITC–DSC—International Section 214 Authorization Discontinuance of Service (new form); RTL–NEW—List of Routes on which the Carrier has Direct Termination Arrangements (new form); RTL–MOD—Modification to Route List (Addition to or Removal from an Existing List of Routes) (new form); and RTL–WAV—International Route List Waiver Request (new form).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 192 respondents; 614 responses.

Estimated Time per Response: 1 hour to 120 hours.

Frequency of Response: On occasion, annual and quarterly reporting requirements, third party disclosure requirement, and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for Part 1 of this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e). The statutory authority for Part 63 of this information collection is contained in sections 1, 4(j), 10, 11, 201–205, 214, 218, 403, and 651 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,393 hours.

Annual Cost Burden: $874,045.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060–0686 to incorporate changes from three Commission orders: the Mandatory Electronic Filing Order, FCC 21–87; the 2020 Executive Branch Review Order, FCC 20–133; and the 2021 Executive Branch Standard Questions Order, FCC 21–104. The Commission also seeks approval for online electronic forms that are currently under development as part of the Commission's modernization of its online, web-based electronic filing system—the International Communications Filing System (ICFS). To improve the Commission's collection of information related to international section 214 authorizations (international section 214s) and to incorporate the new requirements, the Commission revised current application forms and added new forms.

First, the Mandatory Electronic Filing Order requires that any remaining applications and reports administered by the former International Bureau (whose functions are now divided among the Office of International Affairs and the Space Bureau) that are filed on paper or through an alternative filing process should filed electronically once forms become available in ICFS. The Order sought to reduce costs and administrative burdens, and therefore to result in greater efficiencies, facilitate faster and efficient communications, and overall improve transparency to the public.

Second, the 2020 Executive Branch Review Order and the 2021 Executive Branch Standard Questions Order create new requirements associated with certain applications, including international section 214 applications with reportable foreign ownership, that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy, and trade policy issues as well as other changes.

In the 2020 Executive Branch Review Order, the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the 2021 Executive Branch Standards Questions Order, the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Two of these questionnaires and the PII supplement are applicable to international section 214s. International section 214 applicants with reportable foreign ownership will be required to answer the questions, and file their responses, as well as a copy of the FCC application, directly with the Committee.

Finally, the Commission is in the process of modernizing ICFS (ICFS Modernization). This includes developing new and revised international section 214 application forms to improve the Commission's information collection and comply with the new requirements. Until the electronic forms are approved, international section 214 applicants are required to provide the information required by the 2020 Executive Branch Review Order and the 2021 Executive Branch Standard Questions Order by filing current applications and filing separate documents into ICFS to comply with the rules. We estimate that the projected completion date for the modernized ICFS, including all international section 214 application forms, will be July 2024.

OMB Control Number: 3060–0944.

Title: Cable Landing License Act, 47 CFR 1.767, 1.768, 1.40001, 1.40003, Executive Order 10530.

Form Number: SCL–LIC—Submarine Cable Landing License Application (revising form); SCL–STA—Submarine Cable Landing License Special Temporary Authority (revising form); SCL–FCN—Submarine Cable Landing

License Foreign Carrier Affiliation (revising form); SCL–ASG/TC—Submarine Cable Landing License Assignment or Transfer of Control of License (new form); SCL–LPN—Submarine Cable Landing License Landing Point Notification (new form); SCL–MOD—Submarine Cable Landing License Modification (new form); SCL–RPT—Submarine Cable Landing License Quarterly Report (new form); SCL–RWL—Submarine Cable Landing License Renewal (new form); SCL–AMD—Submarine Cable Landing License Amendment (new form); and SCL–WAV—Submarine Cable Landing License Waiver Request (new form).

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 41 respondents; 118 responses.

Estimated Time per Response: 1 to 120 hours.

Frequency of Response: On occasion reporting requirement, Quarterly reporting requirement, Recordkeeping requirement and third-party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, Executive Order 13913, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155, 303(r), 309, and 403.

Total Annual Burden: 960 hours.

Total Annual Cost: $340,255.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve revisions to OMB Control No. 3060–0944 to incorporate the new requirements adopted by the Commission in the 2020 Executive Branch Review Order, FCC 20–133, and the 2021 Executive Branch Standard Questions Order, FCC 21–104. The Commission also seeks approval for online electronic forms that are currently under development as part of the Commission's modernization of its International Communications Filing System (ICFS). To improve the Commission's collection of information related to submarine cable applications and to incorporate the new requirements, the Commission revised current submarine cable application forms and added new forms.

First, the 2020 Executive Branch Review Order and the 2021 Executive Branch Standard Questions Order create new requirements associated with certain applications, including submarine cable applications, with reportable foreign ownership that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy and trade policy issues as well as other changes.

In the 2020 Executive Branch Review Order, the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the 2021 Executive Branch Standards Questions Order, the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Two of these questionnaires and the PII supplement are applicable to submarine cables. Submarine cable applicants with reportable foreign ownership will be required to answer the questions and file their responses as well as a copy of the FCC application, directly with the Committee.

Second, the Commission is in the process of modernizing ICFS (ICFS Modernization), including developing new and revised submarine cable application forms to improve the Commission's information collection and comply with the new requirements. Until the electronic forms are approved, submarine cable applicants are required to provide the information required by the 2020 Executive Branch Review Order and the 2021 Executive Branch Standard Questions Order by filing current applications and filing separate documents into ICFS to comply with the rules. We estimate that the projected completion date for the modernized ICFS, including all cable landing license application forms, will be July 2024.

OMB Control Number: 3060–1163.

Title: 47 CFR 1.5001–1.5004 Regulations Applicable to Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended; 47 §§ 1.40001, 1.40003.

Form Number: ISP–PDR—Section 310(b) Petition for Declaratory Ruling (new form); ISP–AMD—Section 310(b) Petition for Declaratory Ruling Amendment (new form); and ISP–WAV Section 310(b) Petition for Declaratory Ruling Waiver Request (new form).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 20 respondents; 52 responses.

Estimated Time per Response: 1 hour to 120 hours.

Frequency of Response: On-occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for Part 1 of this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e).

Total Annual Burden: 1,219 hours.

Total Annual Cost: $407,000.

Needs and Uses: The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060–1163 to incorporate new requirements adopted by the Commission in the 2020 Executive Branch Review Order, FCC 20–133, and the 2021 Executive Branch Standard Questions Order, FCC 21–104. The Commission also seeks approval for online electronic forms that are currently under development as part of the Commission's modernization of its online, web-based electronic filing system—the International Communications Filing System (ICFS). The Commission has developed new ICFS forms to improve the Commission's collection of information related to foreign ownership petitions for declaratory ruling under section 310(b) of the Communications Act of 1934, as amended (the Act) (section

310(b) petitions or petitions) related to common carrier wireless, aeronautical en route, and aeronautical fixed radio station licenses (collectively, wireless common carrier licenses) and to incorporate the new requirements.

First, the 2020 Executive Branch Review Order and the 2021 Executive Branch Standard Questions Order create new requirements associated with certain applications, including section 310(b) petitions that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy, and trade policy issues as well as other changes.

In the 2020 Executive Branch Review Order, the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

Second, in the 2021 Executive Branch Standards Questions Order, the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that petitioners currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Petitioners will be required to submit their responses to the Standard Questions and a copy of the section 310(b) petition, directly with the Committee. Broadcast petitioners will be required to answer Standard Questions specific to broadcast licensees and common carrier wireless petitioners will be required to answer Standard Questions specific to common carrier licenses as well as a general PII supplement applicable to all respondents to the Standard Questions.

Finally, the Commission is in the process of modernizing ICFS (ICFS Modernization). Common carrier wireless section 310(b) petitions are filed through ICFS while broadcast section 310(b) petitions are filed through the Media Bureau's Licensing and Management System (LMS) when submitted with a broadcast construction permit, assignment, or transfer of control application. The ICFS Modernization includes developing forms for the submission of petitions related to common carrier wireless licenses to improve the Commission's information collection and comply with the new requirements. Until the new ICFS forms are approved, common carrier wireless section 310(b) petitioners will be required to provide the information required by the 2020 Executive Branch Review Order and the 2021 Executive Branch Standard Questions Order by filing current petitions and filing separate documents into ICFS to comply with the rules. We estimate that the projected completion date for the modernized ICFS, including all forms related to common carrier wireless section 310(b) petitions, will be July 2024.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–06958 Filed 4–1–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 211950]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a new matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces a new computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Connecticut Department of Social Services. The purpose of this matching program is to verify the eligibility of applicants to and subscribers of Lifeline, and the Affordable Connectivity Program (ACP), both of which are administered by USAC under the direction of the FCC. More information about these programs is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 2, 2024. This computer matching program will commence on May 2, 2024, and will conclude 18 months after the effective date.

ADDRESSES: Send comments to Elliot S. Tarloff, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Elliot S. Tarloff at 202–418–0886 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Lifeline program provides support for discounted broadband and voice services to low-income consumers. Lifeline is administered by the Universal Service Administrative Company (USAC) under FCC direction. Consumers qualify for Lifeline through proof of income or participation in a qualifying program, such as Medicaid, the Supplemental Nutritional Assistance Program (SNAP), Federal Public Housing Assistance, Supplemental Security Income (SSI), Veterans and Survivors Pension Benefit, or various Tribal-specific federal assistance programs.

In the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, 2129–36 (2020), Congress created the Emergency Broadband Benefit Program, and directed use of the National Verifier to determine eligibility based on various criteria, including the qualifications for Lifeline (Medicaid, SNAP, etc.). EBBP provided $3.2 billion in monthly consumer discounts for broadband service and one-time provider reimbursement for a connected device (laptop, desktop computer or tablet). In the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429, 1238–44 (2021) (codified at 47 U.S.C. 1751–52), Congress modified and extended EBBP, provided an additional $14.2 billion, and renamed it the Affordable Connectivity Program (ACP). A household may qualify for the ACP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016, (81 FR 33026, May 24, 2016) (*2016 Lifeline Modernization Order*), the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce

compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for ACP. The purpose of this matching program is to verify the eligibility of Lifeline and ACP applicants and subscribers by determining whether they receive SNAP benefits administered by the Connecticut Department of Social Services.

Participating Agencies

Connecticut Department of Social Services (source agency); Federal Communications Commission (recipient agency) and Universal Service Administrative Company.

Authority for Conducting the Matching Program

The authority to conduct the matching program for the FCC's ACP is 47 U.S.C. 1752(a)–(b). The authority to conduct the matching program for the FCC's Lifeline program is 47 U.S.C. 254(a)–(c), (j).

Purpose(s)

The purpose of this new matching agreement is to verify the eligibility of applicants and subscribers to Lifeline, as well as to ACP and other Federal programs that use qualification for Lifeline as an eligibility criterion. This new agreement will permit eligibility verification for the Lifeline program and ACP by checking an applicant's/subscriber's participation in SNAP in Connecticut. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for ACP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for Lifeline and/or ACP benefits; are currently receiving Lifeline and/or ACP benefits; are individuals who enable another individual in their household to qualify for Lifeline and/or ACP benefits; are minors whose status qualifies a parent or guardian for Lifeline and/or ACP benefits; or are individuals who have received Lifeline and/or ACP benefits.

Categories of Records

The categories of records involved in the matching program include the last four digits of the applicant's Social Security Number, date of birth, and first and last name. The National Verifier will transfer these data elements to the Connecticut Department of Social Services which will respond either ''yes'' or ''no'' that the individual is enrolled in a qualifying assistance program: SNAP administered by the Connecticut Department of Social Services.

System(s) of Records

The records shared as part of this matching program reside in the Lifeline system of records, FCC/WCB–1, Lifeline, which was published in the **Federal Register** at 86 FR 11526 (Feb. 25, 2021).

The records shared as part of this matching program reside in the ACP system of records, FCC/WCB–3, Affordable Connectivity Program, which was published in the **Federal Register** at 86 FR 71494 (Dec. 16, 2021).

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2024–06933 Filed 4–1–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0819; FR ID 211757]

Information Collection Being Reviewed by the Federal Communications Commission

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.

DATES: Written PRA comments should be submitted on or before June 3, 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* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION: 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.

OMB Control Number: 3060–0819.

Title: Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support.

Form No.: FCC Form 481, 497, 555, 5629, 5630, and 5631.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households and business or other for-profit enterprises.

Number of Respondents and Responses: 25,110,068 respondents; 26,877,412 responses.

Estimated Time per Response: 0.0167–125 hours.

Frequency of Response: Annual, biennial, monthly, daily and on occasion reporting requirements, recordkeeping requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in Sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302.

Total Annual Burden: 6,534,382 hours.

Total Annual Cost: $937,500.

Needs and Uses: The Commission provides updates to the existing FCC Form 5629 to implement the Safe Connections Act Order, FCC 23–96, to include information for survivors

suffering financial hardship about how they can qualify to receive emergency communications support from the Lifeline program. The revisions also allow survivors to document or self-certify their financial hardship status and include a new question on survivor communication preferences. Additionally, the Commission adds a new requirement for Eligible Telecommunications Carriers (ETCs) seeking to relinquish their ETC designation.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–06969 Filed 4–1–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1210; FR ID 211556]

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 May 2, 2024.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *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* and to *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: 3060–1210.

Title: Wireless E911 Location Accuracy Requirements (PS Docket No. 07–114).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, State, Local or Tribal Government, and Federal Government.

Number of Respondents and Responses: 4,190 respondents; 21,336 responses.

Estimated Time per Response: 2—10 hours.

Frequency of Response: Recordkeeping, on occasion; one-time; quarterly and semi-annual reporting requirements, and third-party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 1, 2, 4(i), 7, 10, 201, 214, 222, 251(e), 301, 302, 303, 303(b), 303(r), 307, 307(a), 309, 309(j)(3), 316, 316(a), and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 94,098 hours.

Total Annual Cost: No Cost.

Needs and Uses: This notice pertains to multiple information collections relating to the Commission's wireless E911 indoor location accuracy regulations. As described below, OMB previously approved the information collections associated with OMB Control No. 3060–1210.

Section 9.10(i)(4)(iv) requires all Commercial Mobile Radio Services (CMRS) providers to certify ''that neither they nor any third party they rely on to obtain dispatchable location information will use dispatchable location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' In addition, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain dispatchable location information will implement measures sufficient to safeguard the privacy and security of dispatchable location information.'' Under 47 CFR 9.10(i)(4)(v), all CMRS providers must certify ''that neither they nor any third party they rely on to obtain z-axis information will use z-axis information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' Further, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain z-axis information will implement measures sufficient to safeguard the privacy and security of z-axis location information.'' The Commission obtained OMB approval for the information collections

contained in these certifications after adopting the Fourth Report and Order, Fifth Report and Sixth Report and Order under OMB Control No. 3060–1210. The Sixth Report and Order modified these information collections slightly by deleting references to the National Emergency Address Database (NEAD), which has been discontinued and will not be available to CMRS providers.

Section 9.10(i)(3)(ii) requires CMRS providers that serve any of the six Test Cities identified by ATIS (Atlanta, Denver/Front Range, San Francisco, Philadelphia, Chicago, and Manhattan Borough of New York City) or portions thereof to collect and report aggregate data on the location technologies used for live 911 calls. As discussed below, in 2018, the Commission developed a reporting template to assist CMRS providers in collecting, formatting, and submitting aggregate live 911 call data in accordance with the requirements in the rules. After adopting the Fifth Report and Order, the Commission indicated that it would modify the live call template to include vertical location. We have since modified the form to include z-axis (vertical) location information from live calls in addition to horizontal location information. Specifically, the template includes fields for reporting the percentage of total 911 calls that result in dispatchable location or z-axis location information by morphology and position technology and for reporting z-axis deployment options used for 911 calls, and OMB approved that modification.

Section 9.10(j)(4) requires CMRS providers to supply confidence and uncertainty (C/U) information with wireless E911 calls that have dispatchable location or z-axis information and to do so in accordance with the timelines for vertical location accuracy compliance. As noted below, OMB previously approved and renewed a C/U data requirement for horizontal location information under OMB Control No. 3060–1204. (*See also* OMB Control No. 3060–1147.) The Fifth Report and Order extended the C/U requirements to include vertical location information, and OMB approved that modification. The Sixth Report and Order revised 47 CFR 9.10(j)(4) to add a requirement that where floor-level information is available to CMRS providers, they must provide C/U data for the z-axis (vertical) information included with such floor-level information.

Under § 9.10(k), CMRS providers must record information on all live 911 calls, including the C/U data that they provide to PSAPs under § 9.10(j) of the rules. In addition, § 9.10(k) requires CMRS providers to make this information available to PSAPs upon request and to retain it for a period of two years. The Commission obtained OMB approval for the information collections contained in § 9.10(k) after adopting the Fourth Report and Order. The Sixth Report and Order amended § 9.10(k) to make explicit that the requirements in the rule extend to C/U data for dispatchable location and floor-level information, as well as for z-axis information. This eliminated a potential gap in the rule, which previously referred only to z-axis information.

Section 9.10(i)(2)(ii)(J)(*4*) provides that a CMRS provider will be deemed to have met its z-axis technology deployment obligation so long as it either pre-installs or affirmatively pushes the location technology to end users so that they receive a prompt or other notice informing them that the application or service is available and what they need to do to download and enable the technology on their phone. A CMRS provider will be deemed in compliance with its z-axis deployment obligation if it makes the technology available to the end user in this manner even if the end user declines to use the technology or subsequently disables it. This collection adopted by the Commission in the Sixth Report and Order was approved by OMB.

Section 9.10(i)(2)(ii)(A) requires that within three years of the effective date of the rule, CMRS providers shall deliver uncompensated barometric pressure data from any device capable of delivering such data to PSAPs. This requirement is necessary to ensure that PSAPs are receiving all location information possible to be used for dispatch. This requirement is also necessary to ensure that CMRS providers implement a vertical location solution in the event that the proposed ''dispatchable location'' solution does not function as intended by the three-year mark and beyond.

Section 9.10(i)(2)(ii)(B) requires that the four nationwide providers submit to the Commission for review and approval a reasonable metric for z-axis (vertical) location accuracy no later than 3 years from the effective date of rules. This requirement is critical to ensure that the vertical location framework adopted in the Fourth Report and Order is effectively implemented.

Section 9.10(i)(2)(iii) requires CMRS providers to certify compliance with the Commission's rules at various benchmarks throughout implementation of improved location accuracy. This requirement is necessary to ensure that CMRS providers remain ''on track'' to reach the location accuracy benchmarks.

Section 9.10(i)(2)(iv) provides that PSAPs may seek Commission enforcement of the location accuracy requirements within their geographic service area, but only so long as they have implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP. Prior to seeking Commission enforcement, a PSAP must provide the CMRS provider with 30 days written notice, and the CMRS provider shall have an opportunity to address the issue informally. If the issue has not been addressed to the PSAP's satisfaction within 90 days, the PSAP may seek enforcement relief.

Section 9.10(i)(3)(i) requires that within 12 months of the effective date, the four nationwide CMRS providers must establish the test bed described in the Fourth Report and Order, which will validate technologies intended for indoor location. The test bed is necessary for the compliance certification framework adopted in the Fourth Report and Order.

Section 9.10(i)(3)(ii) requires that beginning 18 months from the effective date of the rules, CMRS providers providing service in any of the six Test Cities identified by ATIS (Atlanta, Denver/Front Range, San Francisco, Philadelphia, Chicago, and Manhattan Borough of New York City) or portions thereof must collect and report aggregate data on the location technologies used for live 911 calls. Nationwide CMRS providers must submit call data on a quarterly basis; non-nationwide CMRS providers need only submit this data every six months. Non-nationwide providers that do not provide service in any of the Test Cities may satisfy this requirement by collecting and reporting data based on the largest county within the carrier's footprint. This reporting requirement is necessary to validate and verify the compliance certifications made by CMRS providers.

The Commission developed a reporting template to assist CMRS providers in collecting, formatting, and submitting aggregate live 911 call data in accordance with the requirements in the rules. The template will also assist the Commission in evaluating the progress CMRS providers have made toward meeting the 911 location accuracy benchmarks. The template is an Excel spreadsheet and will be available for downloading on the Commission's website. The Commission may also develop an online filing mechanism for these reports in the future.

Section 9.10(i)(3)(iii) requires CMRS providers to retain testing and live call

data gathered pursuant to this section for a period of 2 years.

Section 9.10(i)(4)(i) provides that no later than 18 months from the effective date of the adoption of the rule, nationwide CMRS providers shall report to the Commission their initial plans for meeting the indoor location accuracy requirements of paragraph (i)(2) of § 9.10. Non-nationwide CMRS providers will have an additional 6 months to submit their implementation plan.

Section 9.10(i)(4)(ii) requires that no later than 18 months from the effective date, each CMRS provider shall submit to the Commission a report on its progress toward implementing improved indoor location accuracy. Non-nationwide CMRS providers will have an additional 6 months to submit their progress reports. All CMRS providers shall provide an additional progress report no later than 36 months from the effective date of the adoption of this rule. The 36-month reports shall indicate what progress the provider has made consistent with its implementation plan.

Section 9.10(i)(4)(iii) requires that prior to activation of the NEAD but no later than 18 months from the effective date of the adoption of this rule, the nationwide CMRS providers shall file with the Commission and request approval for a security and privacy plan for the administration and operation of the NEAD.

Section 9.10(i)(4)(iv) requires CMRS providers to certify ''that neither they nor any third party they rely on to obtain dispatchable location information will use dispatchable location information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' In addition, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain dispatchable location information will implement measures sufficient to safeguard the privacy and security of dispatchable location information.'' As noted above, the Commission has revised this requirement to account for the fact that the NEAD has been discontinued.

Section 9.10(i)(4)(v) requires that prior to use of z-axis information to meet the Commission's location accuracy requirements, CMRS providers must certify ''that neither they nor any third party they rely on to obtain z-axis information will use z-axis information or associated data for any non-911 purpose, except with prior express consent or as otherwise required by law.'' Further, ''[t]he certification must state that CMRS providers and any third party they rely on to obtain z-axis information will implement measures sufficient to safeguard the privacy and security of z-axis location information.'' This requirement is necessary to ensure the privacy and security of any personally identifiable information that may be collected by the CMRS provider. As noted above, the Commission has revised this requirement to account for the fact that the NEAD has been discontinued.

Section 9.10(j) requires CMRS providers to provide standardized confidence and uncertainty (C/U) data for all wireless 911 calls, whether from outdoor or indoor locations, on a per-call basis upon the request of a PSAP. This requirement makes the use of C/U data easier for PSAPs.

Section 9.10(j)(4) also requires that upon meeting the timeframes pursuant to paragraphs (i)(2)(ii)(C) and (D) of this section, CMRS providers shall provide with wireless 911 calls that have dispatchable location or z-axis (vertical) information the C/U data required under paragraph (j)(1) of this section. Where available to the CMRS provider, floor level information must be provided with associated C/U data in addition to z-axis location information.

Section 9.10(k) requires CMRS providers to record information on all live 911 calls, including but not limited to the positioning source method used to provide a location fix associated with the call, as well as confidence and uncertainty data. This information must be made available to PSAPs upon request, as a measure to promote transparency and accountability for this set of rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–06957 Filed 4–1–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0384; FR ID 212090]

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 June 3, 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* and to *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: 3060–0384.

Title: Sections 64.901, 64.904 and 64.905, Auditor's Attestation and Certification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent, 1 response.

Estimated Time per Response: 5–250 hours.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in Sections 1, 4, 201–205, 215, and 218–220 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, and 218–220.

Frequency of Response: On-occasion, biennial, and annual reporting requirements.

Total Annual Burden: 255 hours.

Total Annual Cost: $1,200,000.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the three year clearance from them. There is no change to the reporting requirements. Section 64.904(a) requires each incumbent LEC required to file a cost allocation manual is required to either have an attest engagement performed by an independent auditor every two years, covering the prior two year period, or have a financial audit performed by an independent auditor biennially. In either case, the initial engagement shall be performed in the calendar year after the carrier is first required to file a cost allocation manual. See Section 64.904(a)–(c). Instead of requiring mid-sized carriers to incur the expense of a biennial attestation engagement, they now file a certification with the Commission stating that they are in compliance with 47 CFR 64.901 of the Commission's rules. The certification must be signed, under oath, by an officer of the incumbent LEC, and filed with the Commission on an annual basis. Such certification of compliance represents a less costly means of enforcing compliance with our cost allocation rules. See 47 CFR 64.905 of the Commission's rules. The requirements are imposed to ensure that the carriers are properly complying with Commission rules. They serve as an important aid in the Commission's monitoring program.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–06972 Filed 4–1–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 211947]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) has modified an existing system of records, FCC/OMD–30, FCC Visitors Database, subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The FCC's Security Operations Center (SOC) in the Office of Managing Director (OMD) uses this system to maintain the personally identifiable information (PII) that all visitors to the FCC, including but not limited to U.S. citizens, permanent residents (*i.e.,* green card holders), and foreign nationals, must provide to the SOC to gain admittance to the FCC headquarters buildings and other FCC facilities.

DATES: This modified system of records will become effective on April 2, 2024. Written comments on the routine uses are due by May 2, 2024. The routine uses in this action will become effective on May 2, 2024 unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Brendan McTaggart, Attorney-Advisor, Office of General Counsel, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Brendan McTaggart, (202) 418–1738, or *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC/OMD–30 as a result of the various necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC/OMD–30 system of records include:

1. Adding one new routine use: (8) Assistance to Federal Agencies and Entities Related to Breaches, the addition of which is required by OMB M–17–12;

2. Updating and/or revising language in six routine uses (listed by current routine use number): (1) Litigation (formerly ''Litigation by the Department of Justice''); (2) Adjudication (formerly ''Court or Adjudicative Body''); (3) Law Enforcement and Investigation (formerly ''Department of State, Department of Homeland Security, and other Federal Agencies''; (4) Government-wide Program Management and Oversight; (5) Congressional Inquiries; (6) Nonfederal Personnel (formerly ''Contract Services, Grants, or Cooperative Agreements''); and (7) Breach Notification, the modification of which is required by OMB M–17–12.

The system of records is also updated to reflect various administrative changes related to the system managers and system addresses; policy and practices for storage, retention, disposal and retrieval of the information; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER:

FCC/OMD–30, FCC Visitors Database.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Security Operations Center (SOC), Office of the Managing Director (OMD), Federal Communications Commission (FCC), 45 L St NE, Washington, DC 20554.

SYSTEM MANAGER(S):

SOC, OMD, FCC, 45 L St NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 6 U.S.C. 202; 8 U.S.C. 1103, 1158, 1201, 1324, 1357, 1360, 1365a, 1365b, 1372, 1379, 1732; National Defense Authorization Act for FY 1996 (Pub. L. 104–106, sec. 5113); E-Government Act of 2002 (Pub. L. 107–347, sec. 203); and Federal Property and Administrative Act of 1949, as amended (Pub. L. 81–152).

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to cover the personally identifiable information (PII) that all visitors to the FCC, including but not limited to U.S. citizens, permanent residents (*i.e.,* green card holders), and foreign nationals, must provide to the FCC's SOC to gain admittance to the FCC headquarters buildings and other FCC facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records in this system include all visitors to the FCC. These individuals include, but are not limited to U.S. citizens, permanent residents (*i.e.,* green card holders), and foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the FCC Visitors Database may include, but are not limited, to the individual's first and last name, photographic identification (including but not limited to a driver's license, passport, or other types of photo identification), the authority issuing the photo identification, U.S. visa number, FCC point of contact, visitor signature, professional title, organizational affiliation, contact information for the visitor, including but not limited to wireline or wireless (cell) phone numbers, correspondence related to

information required to obtain visitor entry to the FCC, and purpose(s) for visiting the FCC.

RECORD SOURCE CATEGORIES:

The sources for information in this system are the visitors themselves and/or their agency or organizational sponsor(s) who have been invited to or have requested admittance to the FCC headquarters buildings and other FCC facilities for the visitors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about individuals in this system of records may routinely be disclosed under the following conditions: 1. Litigation—To disclose records to the Department of Justice (DOJ) when: (a) the FCC or any component thereof; (b) any employee of the FCC in their official capacity; (c) any employee of the FCC in their individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation.

2. Adjudication—To disclose records in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in their official capacity; or (c) any employee of the FCC in their individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation.

3. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

4. Government-wide Program Management and Oversight—To disclose information to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

5. Congressional Inquiries—To provide information to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the written request of that individual.

6. Non-Federal Personnel—To disclose information to non-Federal personnel, including contractors, other vendors (*e.g.,* identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract, service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

7. Breach Notification—To appropriate agencies, entities, and persons when (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

8. Assistance to Federal Agencies and Entities Related to Breaches—To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information in the FCC Visitors Database includes electronic records, files, and electronic records, files, and data that are stored in the FCC's computer network databases.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The information in the FCC Visitors Database may be retrieved by the name of the individual, driver's license number, U.S. passport number, foreign passport number, U.S. visa number, date of birth (DOB), and/or photo ID number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in the FCC Visitors Database are retained and disposed of in accordance with National Archives and Records Administration (NARA) General Records Schedule (GRS) 5.6, Security Management Records, DAA–GRS–2021–0001.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC or a vendor's accreditation boundaries and maintained in a database housed in the FCC's or vendor's computer network databases. Access to the files is restricted to authorized employees and contractors, including IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis. The files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), OMB, and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to contest information pertaining to him or her in the system of records should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov.* Individuals requesting record access or amendment must also comply with the FCC's Privacy Act regulations regarding verification of identity as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

77 FR 31851 (May 30, 2012).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024–06959 Filed 4–1–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0006; –0114; –0197]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064–0006; –0114 and –0197).

DATES: Comments must be submitted on or before June 3, 2024.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. *Title:* Interagency Biographical and Financial Report.

OMB Number: 3064–0006.

Forms: 6200/06.

Affected Public: Individuals or households; business or other for profit; Insured state nonmember banks and state savings associations.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0006]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Form 6200/06—Interagency Biographical and Financial Report, 12 U.S.C. 1815(a), 1817(j), and 1831i (Mandatory).	Reporting (On Occasion).	136	2.86	04:30	1,751
Total Annual Burden (Hours):	.....	.....	.....	.....	*1,751*

Source: FDIC.

General Description of Collection: The Interagency Bank Merger Act Application form is used by the FDIC, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency for applications under section 18(c) of the Federal Deposit Insurance Act (FDIA), as amended (12 U.S.C. 1828(c)). The application is used for a merger, consolidation, or other combining transaction between nonaffiliated parties as well as to effect a corporate reorganization between affiliated parties (affiliate transaction). An affiliate transaction refers to a merger transaction or other business combination (including a purchase and assumption) between institutions that are commonly controlled (for example, between a depository institution and an affiliated interim institution). There are different levels of burden for nonaffiliate and affiliate transactions. Applicants proposing affiliate transactions are required to provide less information than applicants involved in the merger of two unaffiliated entities. If depository institutions are not controlled by the same holding company, the merger transaction is considered a non-affiliate transaction. There is no change in the methodology or substance of this information collection. The reduction in estimated annual burden (from 2,313 hours in 2021 to 1,751 hours currently) is due to the decline in the historical number of Reports received by the FDIC, which is the basis for the estimated number of annual responses.

2. *Title:* Foreign Banks.

OMB Number: 3064–0114.

Affected Public: Insured branches of foreign banks.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–1114]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Approval to Conduct Activities, 12 CFR 303.187 (Mandatory).	Reporting (Annual)	1	1	08:00	8
2. Consent to Operate, 12 CFR 303.186 (Mandatory).	Reporting (Annual)	1	1	08:00	8
3. Moving a Branch, 12 CFR 303.184 (Mandatory).	Reporting (Annual)	1	1	08:00	8
4. Pledge of Assets Documents, 12 CFR 347.209(e)(4) (Mandatory).	Disclosure (Quarterly) ..	10	4	00:15	10
5. Pledge of Assets Reports, 12 CFR 347.209(e)(6) (Mandatory).	Reporting (Quarterly)	10	4	2:00	80
6. Recordkeeping, 12 CFR 347.205 (Mandatory)	Recordkeeping (Annual)	10	1	120:00	1,200
Total Annual Burden (Hours)	.....	.....	.....	.....	*1,314*

Source: FDIC.

General Description of Collection: Applications to move an insured state licensed branch of a foreign bank; applications to operate as such noninsured state-licensed branch of a foreign bank; applications from an insured state-licensed branch of a foreign bank to conduct activities that are not permissible for a federally licensed branch; internal recordkeeping by such branches; and reporting and recordkeeping requirements relating to such a branch's pledge of assets to the FDIC. There is no change in the methodology or substance of this information collection. The estimated burden remains unchanged from 2021.

3. *Title:* Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring (LCR).

OMB Number: 3064–0197.

Affected Public: State savings associations and State nonmember banks.

Burden Estimate:

SUMMARY OF ESTIMATED ANNUAL BURDEN

[OMB No. 3064–0197]

Information collection (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. 329.40(a) Notification that liquidity coverage ratio is less than minimum in 329.10; 329.110(a) NSFR shortfall notification. (Mandatory).	Reporting (On Occasion).	1	1	00:30	1
2. 329.40(b) and 329.110(b). LCR and NSFR Shortfall Reporting Requirements. (Mandatory).	Reporting (On Occasion).	1	1	44:30	45
3.329.40(b)(3)(iv) and 329.110(b)(3) Report of progress toward achieving compliance. (Mandatory).	Reporting (On Occasion).	1	1	00:30	1
4. 329.22(a) and 329.109(b) Policies and Procedures. (Mandatory).	Recordkeeping (Annual)	3	1	25:00	75
5. 329.4(a) Qualified Master Netting Agreements. (Mandatory).	Recordkeeping (Annual)	3	1	00:30	2
Total Annual Burden (Hours)	.....	.....	.....	.....	*124*

Source: FDIC.

General Description of Collection: The LCR rule implements a quantitative liquidity requirement and contains requirements subject to the PRA. The requirement is designed to promote the short-term resilience of the liquidity risk profile of large and internationally active banking organizations, thereby improving the banking sector's ability to absorb shocks arising from financial and economic stress, and to further improve the measurement and management of liquidity risk. The LCR rule establishes a quantitative minimum liquidity coverage ratio that requires a company subject to the rule to maintain an amount of high-quality liquid assets (the numerator of the ratio) that is no less than 100 percent of its total net cash outflows over a prospective 30 calendar day period (the denominator of the ratio). There is no change in the methodology or substance of this information collection. This reduction in estimated annual burden (from 994 hours in 2021 to 124 hours currently) is due the reduction in both the estimated number of annual respondents and the estimated time per response.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, March 27, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–06881 Filed 4–1–24; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 24–17]

Samsung Electronics America, Inc., Complainant v. Orient Overseas Container Line Limited and OOCL (Europe) Limited, Respondents; Notice of Filing of Complaint and Assignment

Served: March 28, 2024.

Notice is given that a complaint has been filed with the Federal Maritime Commission (the ''Commission'') by Samsung Electronics America, Inc. (the ''Complainant'') against Orient Overseas Container Line Limited and OOCL (Europe) Limited (the ''Respondents''). Complainant states that the Commission has subject matter jurisdiction over this complaint pursuant to the Shipping Act of 1984, as amended, 46 U.S.C. 40101 *et seq.* and personal jurisdiction over the Respondents as common carriers and as vessel-operating ocean common carriers as these terms are defined in 46 U.S.C. 40102.

Complainant is a corporation organized and existing under the laws of the State of New York with a principal place of business in Ridgefield Park, New Jersey.

Complainant identifies Respondent Orient Overseas Container Line Limited as a company existing under the laws of Hong Kong with its principal place of business in Wanchai, Hong Kong whose agent in the United States is OOCL (USA) Inc. with its principal place of business in South Jordan, Utah.

Complainant identifies Respondent OOCL (Europe) Limited as a company existing under the laws of United Kingdom with its principal place of business in Levington, Suffolk, United Kingdom whose agent in the United States is OOCL (USA) Inc. with its principal place of business in South Jordan, Utah.

Complainant alleges that Respondents violated 46 U.S.C. 41102(c) and (d), and 41104(a)(3), (10), (14), and (15); and 46 CFR 545.4 and 545.5. Complainant alleges these violations arose from a failure to perform and a delay in performance of inland transportation obligations on ''store door'' shipments, and other acts and omissions of the Respondents, that resulted in damages, such as unreasonable costs, demurrage and detention charges, and delay.

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/24-17/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by March 28, 2025, and the final decision of the Commission shall be issued by October 14, 2025.

David Eng,

Secretary.

[FR Doc. 2024–06925 Filed 4–1–24; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL MARITIME COMMISSION

[Docket No. 24–16]

Samsung Electronics America, Inc., Complainant, v. COSCO Shipping Lines Co., Ltd., Respondent; Notice of Filing of Complaint and Assignment

Served: March 28, 2024.

Notice is given that a complaint has been filed with the Federal Maritime Commission (the ''Commission'') by Samsung Electronics America, Inc. (the ''Complainant'') against COSCO Shipping Lines Co., Ltd. (the ''Respondent''). Complainant states that the Commission has subject matter jurisdiction over this complaint pursuant to the Shipping Act of 1984, 46 U.S.C. 40101, *et seq.* and personal jurisdiction over the Respondent as a common carrier and as a vessel-operating ocean common carrier as these terms are defined in 46 U.S.C. 40102.

Complainant is a corporation organized and existing under the laws of the State of New York with a principal place of business in Ridgefield Park, New Jersey.

Complainant identifies Respondent as a global ocean carrier with its corporate office in Shanghai, China who conducts business in the United States under COSCO Shipping (North America) Inc. with its principal corporate office in Secaucus, New Jersey.

Complainant alleges that Respondent violated 46 U.S.C. 41102(c) and (d), and 41104(a)(3), (10), (14), and (15); and 46 CFR 545.4 and 545.5. Complainant alleges these violations arose from a failure to perform and a delay in performance of inland transportation obligations on ''store door'' shipments, and other acts and omissions of the Respondent, that resulted in damages, such as unreasonable costs, demurrage and detention charges, and delay.

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/24-16/.* This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding judge shall be issued by March 28, 2025, and the final decision of the Commission shall be issued by October 14, 2025.

David Eng,

Secretary.

[FR Doc. 2024–06936 Filed 4–1–24; 8:45 am]

BILLING CODE 6730–02–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–XXXX; Docket No. 2023–0001; Sequence No. 8]

Submission for OMB Review; Data Collection for a National Evaluation of the American Rescue Plan

AGENCY: Office of Evaluation Sciences; General Services Administration (GSA).

ACTION: Notice of request for comments regarding a request for a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, OES is proposing new data collection activities conducted for the National Evaluation of the American Rescue Plan (ARP). The objective of this project is to provide a systematic look at the contributions of selected ARP-funded programs toward achieving equitable outcomes to inform program design and delivery across the Federal Government. The project will include in-depth, cross-cutting evaluations and data analysis of selected ARP programs, especially those with shared outcomes, common approaches, or overlapping recipient communities; and targeted, program-specific analyses to fill critical gaps in evidence needs.

DATES: Submit comments on or before May 2, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days

of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Elizabeth Martin, Program Manager, 267–455–8556 at *arp.national.evaluation@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The goal of this study is to look systematically across the selected subset of ARP programs, to provide an integrated account of whether, how, and to what extent their implementation served to achieve their intended outcomes, particularly with respect to advancing equity. More specifically, the study aims to learn how lessons from examination of ARP programs and interventions with shared outcomes, common approaches, or overlapping recipient communities may inform equitable program design and delivery across the Federal Government. The study aims to address these overarching evaluation questions:

- To what extent did ARP investments and policy interventions advance equitable outcomes for those they were designed to serve?
- What strategies contributed to the successes, and where are different strategies needed?
- Where multiple ARP programs aim to reach similar outcomes, especially among a shared population:
  - To what extent is there coordination across programs in their administration, customer experience strategies, or performance or outcome measurement practices?
  - To what extent are there collective impacts that could be attributed to more than one program? What kinds of impacts, if any, are observed?
  - What kinds of secondary effects are observed that may not be captured in targeted outcome measures?

The list of 32 programs covered in the May 2022 White House report ''Advancing Equity through the American Rescue Plan'' provided the scope of programs included in the National Evaluation. A partnership between the Office of Management and Budget Evidence Team and GSA's Office of Evaluation Sciences, this study is also guided by leadership from the White House ARP Implementation Team, who participate on the Steering Committee, as well as a team of agency experts across the Federal Government.

To build evidence in support of the study goals, this project includes a series of up to five in-depth, cross-cutting evaluations of selected ARP programs or recipient communities of multiple ARP program investments with shared outcomes, common approaches, or overlapping recipient groups. These evaluations will be selected based on program, population, place, community, or a combination of these factors. A mixed-methods approach is anticipated in order to ensure that appropriate attention is paid to context and that data collection and analysis methods reflect the complexity of program implementation and address the specific evaluation questions identified through the ongoing planning and consultation process.

The ARP National Evaluation will use a multiple-phased approach for this proposed information collection activity. In Phase 1 (current request) the research team seeks approval to carry out consultations with the relevant state and local agencies, community-based organizations, and program participants, including the formal recruitment process to establish community advisory boards for each of the planned in-depth evaluations.

Under subsequent phases of the request, the project will update the information collection request for the instruments tailored to each in-depth evaluation, to reflect the specific evaluation design, information collection methods and instruments, and associated burden. The proposed information collection activities cover mixed-method approaches to implement primarily outcome and process evaluations. Data collection activities for these studies may include: (1) interviews with program administrators and staff; (2) focus groups, (3) short surveys of program participants and/or eligible non-participants, and (4) data requests.

Respondents: State and local program administrators, program staff, community-based program partners, and individuals who participate or are eligible to participate in the relevant ARP programs.

B. Annual Burden Estimates

Currently, three cross-cutting in-depth evaluations are anticipated. The burden estimates below reflect the expectations for information collection and related activities associated with the conduct of those three studies, in addition to the anticipated burden for this initial, formative phase of the overall study. During Phase 1, we estimate the following: consultations with approximately 95 state and/or local program administrators or representatives from community-based organizations, recruitment of up to 9 participants for each of up to seven Community Advisory Groups established across the three studies, and the initiation of the group meetings.

The anticipated information collections to be undertaken in Phase 2 are expected to vary in their approaches to data collection and sample size. The subsequent information collection requests will describe the specific study design and associated burden for each evaluation. The estimates below include our current expectations for the burden associated with these evaluations.

Total Respondents: 1,241.

Total Annual Responses: 15.

Average Burden Hours per Response: 1.9.

Total Burden Hours: 3,034.5.

C. Public Comments

A 60-day notice published in the **Federal Register** at 88 FR 85621 on December 8, 2023. Two comments were received, but neither provided substantive comments relevant to this specific information collection request.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–XXXX, Data Collection for a National Evaluation of the American Rescue Plan.

Lois Mandell,

Director, Regulatory Secretariat Division, General Services Administration.

[FR Doc. 2024–06913 Filed 4–1–24; 8:45 am]

BILLING CODE 6820–TZ–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Communications and Public Engagement Workgroup of the Advisory Committee to the Director, CDC; Notice of Extension

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is seeking nominations for membership on the Communications and Public Engagement Workgroup

(CPEW) of the Advisory Committee to the Director, CDC. The CPEW consists of approximately 15 members who are experts in fields associated with communications, including public relations, health communication, risk communication, communication research, and marketing; community and partner engagement; public health science and practice, including implementation; and behavioral science/behavior change campaigns.

DATES: The deadline for submission of nominations for membership on the CPEW published March 4, 2024, at 89 FR 15578, is extended. Nominations for membership on the CPEW must be received no later than April 26, 2024. Late nominations will not be considered for membership.

ADDRESSES: All nominations (cover letters, reference letters, and curriculum vitae/resumes) should be emailed to *ACDirector@cdc.gov* with the subject line: ''Nomination for CDC ACD Communications and Public Engagement Workgroup.''

FOR FURTHER INFORMATION CONTACT: Kate Galatas, M.P.H., Senior Communications Specialist, Office of Communications, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21–11, Atlanta, GA 30329–4027. Telephone: (404) 639–2064; Email: *ACDirector@cdc.gov*.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

SUPPLEMENTARY INFORMATION: The deadline for nominations for appointment to the Communications and Public Engagement Workgroup (CPEW) of the Advisory Committee to the Director, Centers for Disease Control and Prevention has been extended from March 28, 2024 to April 26, 2024. The original solicitation of nominations notice was published in the **Federal Register** on March 4, 2024, Volume 89, Number 43, pages 15578–15579.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–06893 Filed 4–1–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–1173]

Electronic Submission of Expedited Safety Reports From Investigational New Drug-Exempt Bioavailability/Bioequivalence Studies; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Electronic Submission of Expedited Safety Reports From IND-Exempt BA/BE Studies.'' This guidance provides instructions for the electronic submission of expedited individual case safety reports (ICSRs) from investigational new drug (IND)-exempt bioavailability (BA)/bioequivalence (BE) studies to the FDA Adverse Event Reporting System (FAERS). This guidance finalizes the draft guidance entitled ''Electronic Submission of Expedited Safety Reports From IND-Exempt BA/BE Studies'' issued on August 3, 2022.

DATES: The announcement of the guidance is published in the **Federal Register** on April 2, 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–1173 for ''Electronic Submission of Expedited Safety Reports from IND-Exempt BA/BE Studies.'' 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. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Susan Levine, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1674, Silver Spring, MD 20993–0002, 240–402–7936, *Susan.Levine@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Electronic Submission of Expedited Safety Reports from IND-Exempt BA/BE Studies.'' This guidance provides instructions for the electronic submission of expedited ICSRs from IND-exempt BA/BE studies to FAERS. An ICSR captures information necessary to support the reporting of an adverse event related to an individual subject that is associated with the use of an FDA-regulated product.[1] The electronic submission of the ICSRs from IND-exempt BA/BE studies is a voluntary option for submitting these required reports.

In the **Federal Register** of September 29, 2010 (75 FR 59935), FDA published a final rule that revised the IND safety reporting requirements for human drug and biological products under 21 CFR 312 and added safety reporting requirements for persons conducting IND-exempt BA/BE studies under § 320.31 (21 CFR 320.31).[2] A serious adverse event experienced by a study subject during the conduct of an IND-exempt BA/BE study must be submitted on Form FDA 3500A or in an electronic format that FDA can process, review, and archive.[3]

Previously, to meet the requirements under § 320.31(d)(3) applicable to IND-exempt BA/BE studies, submitters sent expedited premarket safety reports directly to the Office of Generic Drugs (OGD) by email, telephone, or facsimile. This guidance provides recommendations on how to electronically submit ICSRs to FAERS as an alternate avenue for submitting reports to OGD.

This guidance finalizes the draft guidance entitled ''Electronic Submission of Expedited Safety Reports from IND-Exempt BA/BE Studies'' issued on August 3, 2022 (87 FR 47431). FDA did not receive any comments to the docket. Editorial changes were made to improve clarity and incorporate the FAERS enhancements to enable electronic submissions of ICSRs from IND-exempt BA/BE studies.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Electronic Submission of Expedited Safety Reports from IND-Exempt BA/BE Studies.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. 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 in 21 CFR part 312 for IND applications and 21 CFR 320.31 for IND-exempt BA/BE safety reporting requirements for human drug and biological products have been approved under OMB control number 0910–0014. The collections of information in 21 CFR 314 for safety report submissions for applications for FDA approval new drug application have been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: March 26, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–06726 Filed 4–1–24; 8:45 am]

BILLING CODE 4164–01–P

[1] See additional information on Individual Case Safety Reports available at *https://www.fda.gov/industry/fda-resources-data-standards/individual-case-safety-reports.*

[2] BA and BE studies that meet the conditions for exemption under 21 CFR 320.31 are not conducted under an IND and are not subject to the IND safety reporting requirements. The safety reporting requirements under § 320.31(d)(3) apply to persons conducting BA or BE studies that are exempt from the IND requirements.

[3] § 320.31(d)(3).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Office of Minority Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (HHS) is hereby giving notice

that the Advisory Committee on Minority Health (ACMH) will hold a meeting conducted as a webcast on April 18, 2024. This virtual meeting will be open to the public. Registration is required for the public to attend the meeting, provide comment, and/or distribute material(s) to ACMH members. Any individual who wishes to participate in the virtual meeting should register using the Zoom registration link provided below by 5:00 p.m. EDT on April 12, 2024. Instructions regarding participating in the call and providing written or verbal public comments will be provided after meeting registration occurs. Information about the meeting will be posted on the HHS Office of Minority Health (OMH) website: *www.minorityhealth.hhs.gov.* Information about ACMH activities can be found on the OMH website under the heading *About OMH, Committees and Working Groups.*

DATES: The ACMH meeting will be held on April 18, 2024 from 9:00 a.m. to 10:30 a.m. EDT. If the Committee completes its work before 10:30 a.m., the meeting will adjourn early.

ADDRESSES: The meeting will be held virtually and will be accessible by webcast. Instructions regarding webcast access and providing written or verbal public comments will be given after meeting registration occurs.

FOR FURTHER INFORMATION CONTACT: Violet Woo, Designated Federal Officer, Advisory Committee on Minority Health, OMH, HHS, Tower Building, 1101 Wootton Parkway, Suite 100, Rockville, Maryland 20852. Phone: 240–453–6816; email: *OMH-ACMH@hhs.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health on the development of goals and program activities related to OMH's duties.

The topics to be discussed during the virtual meeting include finalizing: (1) meeting notes of the February 13–14, 2024 ACMH meeting; and (2) recommendations on how OMH and HHS can support community awareness, education and engagement on HHS efforts to implement revised Office of Management and Budget (OMB) Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity (SPD 15). The final recommendations will be given to the Deputy Assistant Secretary for Minority Health to inform efforts related to implementation of the revised OMB standards. Information on OMB's Interagency Technical Working Group on Race and Ethnicity Standards can be found on this website: *spd15revision.gov.*

Any individual who wishes to attend the meeting must register via the Zoom registration link, *https://www.zoomgov.com/meeting/register/vJItce2spj0jHw9b9h15hNrFezljtnit0_g,* by 5:00 p.m. EDT on April 12, 2024. Each registrant should provide their name, affiliation, phone number, email address, if they plan to provide either written or verbal comment, and whether they have requests for special accommodations, including sign language interpretation. After registering, registrants will receive an automated email response with the meeting connection link. The meeting connection link is unique to each registrant and should not be shared.

Members of the public will have an opportunity to provide comments at the meeting. Individuals should indicate during registration whether they intend to provide written or verbal comment. Public comments will be limited to two minutes per speaker during the time allotted. Written statements are limited to two pages. If the two-page limit is exceeded, the full statement will not be included. Registered members of the public who plan to submit and distribute electronic or printed public statements or material(s) related to this meeting's topic should email the material to *OMH-ACMH@hhs.gov* at least five (5) business days prior to the meeting.

Dated: March 25, 2024.

Violet Woo,

Designated Federal Officer, Advisory Committee on Minority Health.

[FR Doc. 2024–06855 Filed 4–1–24; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Purchased/Referred Care Delivery Area Redesignation for the Mashantucket Pequot Tribal Nation in the State of Connecticut

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Final notice.

SUMMARY: Notice is hereby given that the Indian Health Service (IHS) has decided to expand the geographic boundaries of the Purchased/Referred Care Delivery Area (PRCDA) for the Mashantucket Pequot Tribal Nation to include the counties of Fairfield, Hartford, Litchfield, Middlesex, New Haven, Tolland, and Windham in the State of Connecticut. The final PRCDA for the Mashantucket Pequot Tribal Nation now includes the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex, New Haven, New London, Tolland, and Windham. The sole purpose of this expansion is to authorize additional Mashantucket Pequot Tribal Nation members and eligible IHS beneficiaries to receive purchased/referred care (PRC) services.

DATES: This expansion is effective as of the publication date of this notice.

ADDRESSES: This notice can be found at *https://www.federalregister.gov.* Written requests for information should be delivered to: CAPT John Rael, Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop 10E85C, Rockville, MD 20857, or by phone at (301) 443–0969 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The IHS provides services under regulations in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may from time to time, redesignate areas within the United States for inclusion in or exclusion from a PRCDA. 42 CFR 136.22(b). The regulations require that certain criteria must be considered before any

redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the Tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the Tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC.

Additionally, the regulations require that any redesignation of a PRCDA must be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). 42 CFR 136.22(c). In compliance with this requirement, the IHS published a proposed notice of redesignation and requested public comments on January 19, 2024 (89 FR 3669). The IHS did not receive any comments in response to the notice of proposed expansion.

In support of this expansion, the IHS makes the following findings:

1. By expanding the PRCDA to include Fairfield, Hartford, Litchfield, Middlesex, New Haven, Tolland, and Windham Counties, the Mashantucket Pequot Tribal Nation's eligible population will increase by an estimated 32 Tribal members and AI/AN employees.

2. The Mashantucket Pequot Tribal Nation has stated that these 32 individuals are socially and economically affiliated with MPTN.

3. The expanded PRCDA counties form a contiguous area with the existing PRCDA. In addition to their AI/AN employees, MPTN's members reside in each of the expansion counties. For these reasons, the IHS has determined that the expansion counties are geographically proximate, meaning ''on or near'', to the existing PRCDA.

4. The MPTN will use its existing Federal allocation for PRC funds to provide services to the expanded population. No additional financial resources will be allocated by the IHS to MPTN to provide services to its PRC-eligible population.

An updated listing of the PRCDAs for all federally-recognized Tribes may be accessed via a link on the IHS PRCDA Expansion website (*https://www.ihs.gov/prc/prcda-expansion*).

Public Comments: The IHS did not receive any comments in response to the notice of proposed expansion.

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2024–06904 Filed 4–1–24; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Update to the Purchased/Referred Care Delivery Area for the Mississippi Band of Choctaw Indians

AGENCY: Indian Health Service, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Indian Health Service (IHS) has updated the geographic boundaries of the purchased/referred care delivery area (PRCDA) for the Mississippi Band of Choctaw Indians to include the counties of Carroll and Jackson in the State of Mississippi and the county of Lauderdale in the State of Tennessee. The PRCDA for the Mississippi Band of Choctaw Indians now comprises the Mississippi counties of Attala, Carroll, Jackson, Jasper, Jones, Kemper, Leake, Neshoba, Newton, Noxubee, Scott, and Winston, and the Tennessee county of Lauderdale. The sole purpose of this expansion is to authorize additional Mississippi Band of Choctaw Indians members and beneficiaries to receive purchased/referred care (PRC) services.

DATES: This update is effective as of April 2, 2024.

ADDRESSES: This notice can be found at *https://www.federalregister.gov.* Written requests for information should be delivered to: CAPT John Rael, Director, Office of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop 10E85C, Rockville, MD 20857, or by phone at (301) 443–0969 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The IHS provides services under regulations in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A–C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). Under the Act of June 29, 2000, Public Law 106–228 at 1(a)(1), ''all land taken in trust by the United States for the benefit of the Mississippi Band of Choctaw Indians on or after December 23, 1944, shall be part of the Mississippi Choctaw Indian Reservation.'' (114 Stat. 462). A **Federal Register** Notice published by the Bureau of Indian Affairs on April 3, 2007, further provides that ''. . . when additional lands are taken into trust by the United States for the Mississippi Band of Choctaw Indians . . . each such additional land parcel shall automatically become a part of the Mississippi Choctaw Indian Reservation without the need for any other formal declaration to that effect. . .''. 72 FR 15899. In 2012 and 2013, parcels of land in Carroll and Jackson Counties, Mississippi and Lauderdale County, Tennessee were taken into trust by the United States for the benefit of the MBCI. Once taken into trust, these parcels automatically became a part of the MBCI reservation. Accordingly, and at the request of the MBCI, the IHS is now updating the MBCI's PRCDA to include these three counties.

There are no other counties which share a common boundary with the new reservation lands, nor is the MBCI requesting to include in their PRCDA any additional counties which do not hold reservation lands. No existing PRCDAs overlap with the MBCI's updated PRCDA. The MBCI estimates that updating the Tribe's PRCDA will allow an additional 327 individuals, including tribal members, persons of Indian descent residing on the reservation, and other eligible individuals with close social and economic ties to the MBCI to become PRC-eligible. The MBCI further estimates that a significant portion of the newly PRC-eligible individuals have third-party insurance, which will help

defray the costs associated with the expanded PRCDA.

An updated listing of the PRCDAs for all federally recognized Tribes may be accessed via a link on the IHS PRCDA Expansion website (*https://www.ihs.gov/prc/prcda-expansion*).

This notice does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act.

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2024–06905 Filed 4–1–24; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; BEITA at HBCU RFA–EB–23–006 Review SEP.

Date: May 24, 2024.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, Suite 920, 6707 Democracy Blvd., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Tianhong Wang, M.D., Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (301) 435–1189, *wangt3@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health.)

Dated: March 28, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–06973 Filed 4–1–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

[National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting website (*http://videocast.nih.gov/*).

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: May 16, 2024.

Closed: 9:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Room 1255, Rockville, MD 20852, Hybrid.

Open: 12:00 p.m. to 4:30 p.m.

Agenda: staff reports on divisional, programmatical, and special activities.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Room 1255, Rockville, MD 20852, Hybrid.

Contact Person: Rebecca Wagenaar-Miller, Ph.D., Director, Division of Extramural Activities, NIDCD/NIH, 6001 Executive Boulevard, Bethesda, MD 20892, (301) 496–8693, *rebecca.wagenaar-miller@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 28, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–06974 Filed 4–1–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Injury and Alzheimer's Disease Epidemiology.

Date: April 17, 2024.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nketi Innocent Forbang, M.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006K1, Bethesda, MD 20892, (301) 594–0357, *forbangni@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 27, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–06907 Filed 4–1–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0231]

National Commercial Fishing Safety Advisory Committee; April 2024 Meetings

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee meetings; correction.

SUMMARY: The Coast Guard published a notice on March 22, 2024, regarding meetings of the National Commercial Fishing Safety Advisory Committee (Committee). The meetings will take place on April 9, 10 and 11, 2024. The March 22 notice contained typographical errors listing the wrong year for two of these dates. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Wendland, Alternate Designated Federal Officer (ADFO) of the National Commercial Fishing Safety Advisory Committee, telephone 202–372–1245 or *Jonathan.G.Wendland@uscg.mil.*

Correction

In the **Federal Register** of March 22, 2024, in FR Doc. 2024–06106, on page 20488, in the second column, correct the first sentence of the **DATES** section to read: ''The Committee will hold a meeting on Tuesday, April 9, 2024, from 8 a.m. until 5 p.m. eastern daylight time (EDT), Wednesday, April 10, 2024, from 8 a.m. until 5 p.m. EDT, and Thursday, April 11, 2024, from 8 a.m. until 5 p.m. EDT.''

Dated: March 28, 2024.

Michael T. Cunningham,

Chief, Office of Regulations and Administrative Law.

[FR Doc. 2024–06910 Filed 4–1–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Increase in the NEXUS Application Fee and Change in the NEXUS Application Fee for Certain Minors

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: In this document, CBP is announcing an increase in the application fee for the NEXUS program and a change in the NEXUS application fee for certain minors. This change to the NEXUS program is being made simultaneously with changes to the Global Entry and Secure Electronic Network for Travelers Rapid Inspection (SENTRI) programs in order to harmonize the fees, application procedures and standard for exempting minors from payment of the application fee. CBP is simultaneously issuing a separate final rule updating the Global Entry and SENTRI regulations to be consistent with the changes herein.

DATES: New applicants and participants applying for renewal, including specified minors under the age of 18, who submit applications to the NEXUS program on or after October 1, 2024, must pay a $120 non-refundable application fee at the time of the application submission.

FOR FURTHER INFORMATION CONTACT: Rafael E. Henry, Branch Chief, Office of Field Operations, (202) 344–3251, *Rafael.E.Henry@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

U.S. Customs and Border Protection (CBP) operates several trusted traveler programs at land, sea, and air ports of entry that allow dedicated processing for entry into the United States for certain pre-approved, low-risk travelers. Three of those programs are the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, the Global Entry program, and the NEXUS program.[1] Each of these three programs originally had different application fees and a different policy as to whether minors[2] were charged an application fee. CBP is now harmonizing the application fees and establishing a uniform standard for exempting minors from payment of the application fee. In this document, CBP is announcing that, to harmonize the NEXUS application fee with the Global Entry and SENTRI application fees, the NEXUS application fee will be raised to $120 and certain minors, who are currently exempt from the payment of the application fee, will be required to pay the application fee. CBP is simultaneously issuing a separate final rule updating the Global Entry and SENTRI regulations to make those provisions consistent with the changes herein.[3]

Overview of the NEXUS Program

The NEXUS program is a joint trusted traveler program between U.S. Customs and Border Protection (CBP) and the Canada Border Services Agency (CBSA) that allows certain pre-approved, low-risk travelers dedicated processing by both U.S. and Canadian officials at designated lanes at certain northern land border ports of entry, at automated kiosks at Canadian preclearance airports, and at NEXUS marine reporting locations.

An individual is eligible to apply for the NEXUS program if he or she is a citizen or lawful permanent resident of the United States or Canada or is a qualified Mexican national.[4] Reasons

[1] The Free and Secure Trade (FAST) program is another CBP trusted traveler program that allows pre-approved commercial truck drivers dedicated processing at select commercial ports of entry at the northern and southern land borders. This program has different vetting standards, is offered to a different type of traveler, and does not have the same benefits as the Global Entry, SENTRI, and NEXUS programs. TSA PreCheck is a Department of Homeland Security (DHS) trusted traveler program administered by the Transportation Security Administration (TSA).

[2] For the purposes of this notice, we use the term ''minor'' to mean a person who is under the age of 18. The choice of this age range for a minor is based on the standard age of adulthood in the United States (18) as well as the age previously used and currently agreed to by Canada concerning exemption of minors from payment of the NEXUS fee.

[3] CBP published a notice of proposed rulemaking in the **Federal Register** on September 9, 2020, proposing the changes to harmonize the Global Entry and SENTRI application fees and fees for minors consistent with the changes herein. *See* 85 FR 55597. After review of comments received on that NPRM, CBP is publishing a final rule implementing those proposed changes concurrent with this notice.

[4] Pursuant to a Memorandum of Understanding between the Department of Public Safety of Canada, the Secretariat of Governance of the United Mexican States, and the U.S. Department of Homeland Security, Mexican nationals who are members of the Mexican Trusted Traveler Program ''Viajero Confiable'' are eligible to apply for NEXUS membership. CBP and CBSA will continue to make all eligibility and membership determinations.

why an applicant may not qualify for participation include, but are not limited to:

- The applicant is inadmissible to the United States or Canada under applicable immigration laws;
- The applicant provides false or incomplete information on their application;
- The applicant has been convicted of a criminal offense in any country;
- The applicant has been found in violation of customs, agriculture, or immigration law; or
- The applicant fails to meet other requirements of the NEXUS program.

All applicants must undergo a thorough background check against criminal, law enforcement, customs, immigration, and terrorist databases by U.S. and Canadian authorities, a 10-fingerprint law enforcement check, and a personal interview with both a CBP officer and a CBSA officer. Minors are eligible to apply to the NEXUS program with the consent of a parent or legal guardian. Such minors are subject to the same background checks and interview process as all other applicants. Additionally, for minors, a parent or legal guardian must be present at the time of the interview with CBP and CBSA. To be accepted into the NEXUS program, both the United States and Canada must approve the person's application.

Individuals can apply to the NEXUS program via the Trusted Traveler Program Systems (TTP System) website at *https://ttp.cbp.dhs.gov* (formerly Global Online Enrollment System (GOES): website, *https://goes-app.cbp.dhs.gov*).

Prior to the effective date of this notice, a non-refundable $50 application fee was required with the submission of the application and minors were exempt from payment of an application fee. Pursuant to this notice and as described in further detail below, the fee for NEXUS will be raised to $120 for adult applicants and certain minors. A minor applying concurrently with a parent or legal guardian or whose parent or legal guardian is already a NEXUS member will be exempt from payment of the fee. If applicable, the applicant must pay the non-refundable fee through the TTP System at the time he or she submits the application.

After the applicant completes the application and submits the application fee, the TTP System will send an automatic notification to the applicant regarding whether they are conditionally approved or denied acceptance into the NEXUS program. If the applicant is conditionally accepted into the program, CBP will notify them via the TTP System that they are to schedule a personal interview with both CBP and CBSA. The information regarding the interview process and locations will be included with the notification to schedule an interview and is provided on: *https://www.cbp.gov/travel/trusted-traveler-programs/nexus/nexus-enrollment-centers.*

If either the United States or Canada denies an application, the applicant cannot be accepted into the NEXUS program, as membership requires approval by both countries. If CBP denies an application or terminates a participant's membership, there are two methods of redress available. These two methods of redress are: initiating the redress process through the DHS Traveler Redress Inquiry Program (DHS TRIP) at *www.dhs.gov/trip* or contacting the CBP Trusted Traveler Ombudsman via a reconsideration request filed through the TTP System at *https://ttp.cbp.dhs.gov.* If CBSA denies an application or terminates a participant's membership, the applicant or member will be directed to contact CBSA regarding the denial or termination.

Once an individual is accepted into the NEXUS program, CBP will issue a NEXUS Western Hemisphere Travel Initiative (WHTI)-approved [5] Radio Frequency Identification (RFID) card. CBP will charge a $25 fee for any replacement RFID card, for example if the card is lost or stolen or the member needs to update their name. When a replacement card is requested, CBP will deactivate the original RFID card and the original card will no longer function. This NEXUS RFID card allows a participant to receive dedicated processing at NEXUS designated lanes at certain northern border land ports of entry, at automated kiosks at Canadian preclearance airports, and at NEXUS marine reporting locations in the United States and Canada. As a benefit of NEXUS membership, a NEXUS participant may also utilize Global Entry processes for dedicated CBP processing at participating airports, as well as SENTRI lanes subject to certain limitations as described further below.

NEXUS membership is valid for five years. During this five-year membership period, CBP continually vets NEXUS participants through law enforcement databases to ensure that they comply with the program requirements. At the end of the five-year membership period, NEXUS members may apply to renew their memberships by submitting a new application and non-refundable application fee.

Additional information regarding the NEXUS program may be found at *https://www.cbp.gov/travel/trusted-traveler-programs/nexus.*

Harmonizing the CBP Trusted Traveler Program Fees

The NEXUS program is just one of several voluntary trusted traveler programs that provide dedicated processing for pre-approved, low-risk travelers. The Global Entry program allows pre-approved, low-risk travelers dedicated CBP processing at designated airports. The SENTRI program allows dedicated processing at specified land border ports along the United States-Mexico border for pre-approved, low-risk travelers. When the NEXUS, Global Entry and SENTRI programs were established, each had a separate application process. The information about participants of each program were contained in separate databases, and each program provided its participants with different benefits. Each program was intended to be used in different geographic regions for different modes of transportation. The SENTRI program was created for travelers at the U.S.-Mexico border traveling by vehicle. The NEXUS program was established for travelers frequently traveling between the United States and Canada. The Global Entry program was intended to provide dedicated CBP processing into the United States for frequent international air travelers. Due to these differences, there were specific reasons for the programs to have different costs, procedures, and fees. However, with the expansion of the Global Entry program, the success of all three programs, and advances in technology, CBP has since created a uniform application, a centralized database, and has allowed certain shared benefits across the Global Entry, SENTRI and NEXUS programs.

The Global Entry, SENTRI, and NEXUS programs now use the same application on the TTP System website located at *https://ttp.cbp.dhs.gov.* An applicant to any of the programs can indicate the trusted traveler programs to which they wish to apply. CBP officers perform the same application review

[5] WHTI implements a statutory mandate to require all travelers to present a passport or other document that denotes identity and citizenship when entering the United States. *See* Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, section 7209, 118 Stat. 3638, 3823, as amended. The goal of WHTI is to facilitate entry for U.S. citizens and legitimate foreign visitors while strengthening U.S. border security by providing standardized documentation that enables CBP to identify a traveler quickly and reliably. WHTI-compliant documents include valid U.S. passports, passport cards, trusted traveler program cards, and others.

and vetting process on all NEXUS, SENTRI and Global Entry applicants. All of these applicants must undergo a personal interview and must submit fingerprints and/or photographic biometrics before acceptance into any of the programs and are notified of their acceptance or denial via the TTP System. Applicants or participants can contest their denial or removal from the NEXUS, Global Entry or SENTRI programs through the same redress methods, *i.e.,* via DHS TRIP or submitting a reconsideration request to the CBP Trusted Traveler Ombudsman. Membership in all three CBP trusted traveler programs is valid for a five-year membership period. During this five-year membership period and any subsequent renewal period, CBP performs the same continuous vetting on all the participants.

In recent years, certain benefits of the programs have been extended to participants of the other programs. For example, participants in the NEXUS program and certain participants in the SENTRI program are permitted to use the Global Entry processing as part of their membership in those CBP trusted traveler programs.[6] Global Entry participants with Global Entry RFID cards may utilize the SENTRI lanes [7] and enter the United States via NEXUS lanes, and NEXUS marine reporting locations. SENTRI participants may enter the United States via NEXUS lanes, and NEXUS marine reporting locations. NEXUS participants may utilize the SENTRI lanes.[8] Despite these commonalities, each program has retained its own fees and has different policies regarding whether a minor must pay the application fee. CBP is now harmonizing the application fees and establishing a uniform standard for when minors are exempt from payment of the application fee.

Increasing the NEXUS Application Fee

CBP has performed a fee study entitled ''CBP Trusted Traveler Programs Fee Study'' to determine the amount of the fee that is necessary to recover the costs associated with membership in the Global Entry, SENTRI and NEXUS programs. CBP determined that a uniform fee of $120 is appropriate and necessary to recover a reasonable portion of these costs.[9] After an examination of CBP's fee study and a series of joint discussions, CBP and CBSA have mutually agreed to increase the NEXUS application fee to $120. The $120 application fee will apply to new applicants and to those members renewing their membership in the NEXUS program. This non-refundable application fee will continue to be paid to CBP at the time of the application submission via the TTP System.

Changing the NEXUS Application Fee for Certain Minors

Prior to the effective date of this notice, the Global Entry, SENTRI and NEXUS programs were not aligned with respect to whether minors were charged an application fee. The SENTRI program had a complex family option plan and the Global Entry program charged minors the full application fee. Meanwhile, the NEXUS program exempted all minors from payment of the application fee. This disparity resulted in families choosing a program based on financial considerations instead of choosing a program based on the features and benefits of the program. To eliminate this disparity and to reflect the costs to CBP to operate these programs, CBP is now harmonizing the fees, including ensuring that minors applying to the various programs are treated in the same manner and pay the same fee regardless of the program to which they apply.

In this document, CBP is announcing that minors who apply to the NEXUS program or apply for renewal will be exempt from payment of the application fee if the minor's parent or legal guardian applies concurrently with the minor, or if the parent or legal guardian is an existing member of the NEXUS program. If the minor's parent or legal guardian is already a member, the minor will be required to enter the parent or legal guardian's name and trusted traveler number to allow CBP to verify this information. If a minor applies to the NEXUS program without a concurrent parent or legal guardian application, and if the applicant's parent or legal guardian is not already a NEXUS participant, the minor will be charged the full application fee of $120. This is a change from the previous policy, as all minors were exempt from the payment of the NEXUS application fee regardless of their parent or legal guardian's status prior to the effective date of this notice. After joint discussions and an examination of CBP's fee study, CBP and CBSA have mutually concurred with the change in the NEXUS application fee for the specified minors.

All minors applying to the NEXUS program must have the consent of a parent or legal guardian to be eligible to participate, must complete the application, and are subject to the requisite vetting, including the collection of fingerprints. For minors, a parent or legal guardian must be present at the time of the interview with a CBP and CBSA officer.[10]

All other aspects of the NEXUS program remain in effect.

Authority for Announcing Changes to the NEXUS Program Through a Federal Register Notice

To harmonize the Global Entry and SENTRI fees with the NEXUS fee, CBP is simultaneously publishing a separate final rule that changes the application fee for the Global Entry and SENTRI programs to $120 and creates a unified application fee for minors.

CBP is announcing the changes to the NEXUS fee through this **Federal Register** notice, rather than through rulemaking, pursuant to its statutory authority. As provided in 8 U.S.C. 1753, U.S. border inspection agencies acting jointly and in cooperation with Canada, may conduct joint U.S.-Canada inspection projects on the border. The

[6] *See* Utilization of Global Entry processing by NEXUS and SENTRI Participants **Federal Register** notice, for further information (75 FR 82202, December 29, 2010). As a benefit of SENTRI membership, a SENTRI participant who is a U.S. citizen or a U.S. lawful permanent resident may utilize the Global Entry processing. Mexican nationals who are SENTRI participants may only utilize the Global Entry processing upon successful completion of a thorough risk assessment by the Mexican Government.

[7] A Global Entry participant with an RFID card may travel as a passenger in a vehicle using the SENTRI lanes. However, a Global Entry participant may not drive a vehicle into the United States using the SENTRI lanes unless that vehicle has been approved by CBP for use in the SENTRI lanes. *See https://www.cbp.gov/global-entry/faqs* for more information.

[8] A NEXUS participant may travel as a passenger in a vehicle utilizing the SENTRI lanes. However, a NEXUS participant may not drive a vehicle into the United States using the SENTRI lanes unless that vehicle has been approved by CBP for use in the SENTRI lanes. *See https://help.cbp.gov/s/article/Article-227?language=en_US#:~:text=They%20can%20also%20use%20their,not%20for%20the%20NEXUS%20lanes* for more information.

[9] Although the $120 fee is the amount necessary to recover a reasonable portion of the costs associated with the programs, CBP will not recover all of its costs for the NEXUS program. The NEXUS fee is split between the United States and Canada. As a result, the United States will only receive part of the revenue necessary to recover its costs for the NEXUS program. Please see the fee study entitled ''CBP Trusted Traveler Programs Fee Study'' for details. The fee study can be accessed at *https://www.regulations.assumgov/document/USCBP-2020-0035-0038.*

[10] CBSA requires that all custodial parents or legal guardians be present at the time of the interview. For minors with more than one custodial parent or legal guardian, if only one parent or legal guardian is present at the interview, any other custodial parents or guardians must provide a signed letter of consent. *See https://www.cbsa-asfc.gc.ca/services/travel-voyage/prog/nexus/nexus-5-eng.html#a1.* CBP requires one custodial parent or legal guardian to be present at the time of the interview.

NEXUS program is a joint U.S.-Canada trusted traveler program established in 2002 as part of the U.S.-Canada Shared Border Accord. Pursuant to 8 U.S.C. 1753(c), fees for services and forms relating to such joint U.S.-Canadian projects shall be published as a notice in the **Federal Register**. The statute further provides that the Administrative Procedure Act (5 U.S.C. 553) and the Paperwork Reduction Act (44 U.S.C. 3501–3520) shall not apply to the fee setting for services and other administrative requirements of such joint U.S.-Canadian projects.

Signing Authority

Troy A. Miller, the Senior Official Performing the Duties of the Commissioner of U.S. Customs and Border Protection, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings.

[FR Doc. 2024–06852 Filed 4–1–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6444–N–01]

Waiver for a Community Development Block Grant Disaster Recovery (CDBG–DR) Grantee

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice governs Community Development Block Grant disaster recovery (CDBG–DR) funds allocated to the Commonwealth of Puerto Rico pursuant to the Supplemental Appropriations for Disaster Relief Requirements Act, 2017, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018, for major disasters occurring in 2017. In response to a request by the Commonwealth of Puerto Rico, this notice provides a waiver to use CDBG–DR funds to satisfy the non-federal cost share for Federal Emergency Management Agency (FEMA) Public Assistance (PA) funded reconstruction and rehabilitation of houses of worship for grants provided to the Commonwealth.

DATES: *Applicability Date:* April 8, 2024.

FOR FURTHER INFORMATION CONTACT: Tennille Parker, Director, Office of Disaster Recovery, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202–708–3587 (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 from 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.* Email inquiries may be sent to *disaster_recovery@hud.gov.*

SUPPLEMENTARY INFORMATION:

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I. Authority to Grant Waivers

The Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Division B, Pub. L. 115–56), approved September 8, 2017, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1, Pub. L. 115–123), approved February 9, 2018, authorize the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary, or use by the recipient, of grant funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. HUD may also exercise its regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.

The waiver authorized in this notice is based upon a determination by the Secretary that good cause exists and that the waiver is not inconsistent with the overall purposes of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCDA). The good cause for the waiver is summarized in this notice.

II. Pub. L. 115–56 and 115–123 Waiver

Waiver to use CDBG–DR funds to satisfy the non-federal cost share for FEMA PA-funded reconstruction and rehabilitation of houses of worship (Commonwealth of Puerto Rico only).

The Department has awarded CDBG–DR funds to the Commonwealth of Puerto Rico (''the Commonwealth'') under Public Laws 115–56 and 115–123 to assist in the long-term recovery from the 2017 disasters, Hurricanes Irma and Maria. This notice waives requirements for CDBG–DR funds awarded to the Commonwealth under these two Public Laws.

Many buildings in the Commonwealth, including houses of worship, suffered extensive damage in the wake of the two major hurricanes that occurred within the same month of September 2017. In the aftermath of the two hurricanes and other disasters, faith-based organizations (FBOs) have used churches and other principal places of worship to assist residents. Especially in smaller, rural communities of the Commonwealth, houses of worship often serve as shelters during and after disasters and as gathering places to obtain post-disaster assistance and information.

In its current, amended action plan (Amendment 13 to the CDBG–DR action plan, effective October 9, 2023), the Commonwealth's Non-Federal Match Program (NFMP) uses CDBG–DR funds to meet the non-federal share obligations of other, federal disaster-relief assistance provided to the Commonwealth that is used for a variety of activities authorized under title I of the HCDA, including building reconstruction and rehabilitation costs authorized under 42 U.S.C. 5305(a)(4). For example, FEMA has approved the use of its PA funds to pay the federal cost share for the rehabilitation or reconstruction of disaster-damaged houses of worship, including sanctuaries, chapels, or other rooms that FBOs use as their principal place of worship. The Commonwealth seeks to use CDBG–DR funds through the NFMP, pursuant to 42 U.S.C. 5305(a)(4) and 5305(a)(9), to reimburse FBOs for the non-federal cost share associated with FEMA PA-funded reconstruction and rehabilitation of houses of worship damaged or destroyed by Hurricanes Irma and Maria. The regulation at 24 CFR 5.109 applies to CDBG–DR funds, and without a waiver, sections of this regulation either prohibit the use of CDBG–DR funds for these activities or impose costly and time-consuming accounting constraints that prevent the Commonwealth from using its CDBG–DR funds for these activities.

The regulation at 24 CFR 5.109(j) prohibits the use of direct federal financial assistance for the acquisition, construction, or rehabilitation of sanctuaries, chapels, or other rooms that a HUD-funded FBO uses as its principal place of worship. Where a structure is used for both eligible and explicitly

religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), 24 CFR 5.109(j) also provides that direct federal financial assistance may not exceed the cost of the share of acquisition, construction, or rehabilitation attributable to eligible activities in accordance with the cost accounting requirements applicable to the HUD program or activity. The regulations at 24 CFR 5.109(e) state that if an organization engages in explicitly religious activities, the explicitly religious activities must be offered separately, in time or location, from the programs or activities supported by direct Federal financial assistance, and participation must be voluntary for the beneficiaries of the programs or activities that receive direct federal financial assistance. Without a waiver, 24 CFR 5.109(e) and (j) prohibit the Commonwealth from using CDBG–DR funds through the NFMP for reimbursement of the non-federal cost share either outright or because of burdensome and time-consuming cost accounting requirements.

The Department may waive 24 CFR 5.109(e) and (j) only upon a determination of good cause. The Department would not be able to find good cause if it concluded the Commonwealth's proposed use of funds for NFMP activities will likely violate the Establishment Clause. Here, the Department has concluded that the Commonwealth's proposed use of CDBG–DR funds would likely be constitutional and found good cause because the Commonwealth will use neutral, secular criteria in making funding decisions under the NFMP, including in the Commonwealth's assessments of whether NFMP activities meet a national objective. The Department's finding of good cause is additionally based on the fact that granting a waiver to allow CDBG–DR funds to be used as the non-federal match for projects that are otherwise eligible under FEMA's PA Program, will permit the grantee to align its recovery with the way in which FEMA PA funds are distributed and decrease the grantee's administrative burden. The Department's good-cause determination is based on the specific combination of facts and circumstances presented here, and similar waivers may not be permissible in other contexts.

The Secretary's determination of good cause is based on the Department's review of the Commonwealth's waiver requests, the descriptions of the NFMP in the Commonwealth's current CDBG–DR action plan, the Commonwealth's program guidelines for the NFMP, including its criteria for making funding decisions under the NFMP, and other correspondence and communication with the Commonwealth (collectively referred to as the ''waiver requests and related correspondence''). The Commonwealth's waiver requests and related correspondence have provided HUD with a reasonable basis for concluding that the Commonwealth has adopted relevant, neutral, secular criteria to make its funding decisions because it has demonstrated that its funding decisions are made on the same terms and conditions, without regard to religion, and only for eligible entities that qualify under the NFMP.

The Commonwealth's program guidelines shared with HUD indicate that it will make its eligibility determinations exclusively based on neutral and secular criteria including the availability of funds, the date of execution of a subrecipient's agreement, and whether a proposed project meets CDBG–DR requirements related to activity eligibility and one or more of the three national objectives, namely, to benefit low- and moderate-income families, aid in the prevention or elimination of slums or blight, and/or to meet community development needs having a particular urgency. Religion is not relevant to the Commonwealth's assessment of activity eligibility under 42 U.S.C. 5305(a)(4) and 5305(a)(9) for payment of the non-federal cost share of the reconstruction and rehabilitation of houses of worship or any other building. Under these program guidelines, the Commonwealth determines whether a proposed project will meet a national objective before approving funds under the NFMP as part of its eligibility determinations and has indicated that it intends to apply either the urgent need or low- and moderate-income area benefit (LMA) national objectives for projects funded through its NFMP. Furthermore, the Commonwealth's waiver requests and related correspondence also demonstrate that it will use neutral, secular criteria for purposes of assessing compliance under these national objectives.

The urgent need national objective criteria (*i.e.,* activities that meet a community development need that has a particular urgency) that is applicable to the Commonwealth's CDBG–DR funds is established through a waiver and alternative requirement in paragraph VI.A.12. of the **Federal Register** notice published on February 9, 2018 (83 FR 5844) and does not take religion into consideration. Under the waiver and alternative requirement, assisted houses of worship will be in compliance with the urgent need national objective if the assisted structures fall within the type, scale, and location of the disaster-related impacts identified to be addressed through the NFMP in the Commonwealth's action plan. Because the urgent need national objective criteria is a neutral, secular requirement that does not allow for the exercise of discretion with regard to religion, a determination by the Commonwealth that an activity is consistent with the urgent need waiver and alternative requirement is one that uses neutral, secular criteria.

The requirements for the LMA national objective are found at 24 CFR 570.483(b)(1)(i), and activities satisfy this requirement if an activity's benefits are available to all the residents in a particular area, where at least 51 percent of the residents are low- and moderate-income persons. The Commonwealth's waiver requests and related correspondence with HUD identify neutral, secular reasons for the Commonwealth to determine that its use of CDBG–DR funds to reimburse the costs of reconstructing or rehabilitating houses of worship damaged by Hurricanes Irma and Maria will meet the LMA national objective. Specifically, the Commonwealth has indicated that FBOs used houses of worship in many distressed communities in the Commonwealth to provide childcare, foodbanks, or shelter for the homeless; FBOs in the Commonwealth served as ''first responders'' in low- to moderate-income communities where natural disasters occurred, and shrines, chapels, and other rooms that serve as primary places of worship were ''used for eligible activities outside of hours of worship''; and houses of worship in Puerto Rico ''are almost always found in the center of town'' and are of great importance to, especially, smaller communities, in part because the structures have ''served as shelters during and after . . . hurricanes'' and have been ''gathering places to obtain post-disaster assistance and information.'' These representations provide a reasonable basis for HUD's conclusion that the Commonwealth will use neutral, secular criteria in assessing whether funded activities would meet the LMA national objective requirement.

Because HUD has concluded that the Commonwealth has adopted neutral, secular criteria to make its funding decisions under the NFMP, HUD has found good cause for the requested waiver, and waives 24 CFR 5.109(e) and (j) only to allow the Commonwealth to use CDBG–DR funds to reimburse FBOs for the non-federal cost share associated with FEMA PA-funded reconstruction

and rehabilitation of houses of worship damaged or destroyed by Hurricanes Irma and Maria through its NFMP pursuant to 42 U.S.C. 5305(a)(4) and 5305(a)(9). This waiver is conditioned on the Commonwealth's compliance with the Establishment Clause, and is only available so long as the Commonwealth uses neutral and secular criteria in its funding decisions under the NFMP, including in its assessments of whether activities funded through the NFMP meet a national objective.

III. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available online on HUD's CDBG–DR website at *https://www.hud.gov/program_offices/comm_planning/cdbg-dr* and for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (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.*

Adrianne Todman,

Acting Secretary.

[FR Doc. 2024–06877 Filed 4–1–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2024–0035; FXES48020442171–XXX–FF04EF000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Eastern Indigo Snake; Citrus County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Florida Department of Transportation—Florida's Turnpike Enterprise (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed eastern indigo snake (*Drymarchon corais couperii*) incidental to the construction of the Suncoast Parkway 2 Segment 3A from County Road (CR) 486 to CR 495 in Citrus County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before May 2, 2024.

ADDRESSES: *Obtaining Documents:* The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS–R4–ES–2024–0035; at *https://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2024–0035;
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2024–0035; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Zakia Williams, by telephone at 904–404–2452 or via email at *zakia_williams@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Florida Department of Transportation—Florida's Turnpike Enterprise (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take federally listed eastern indigo snake (*Drymarchon corais couperii*) incidental to the construction of Suncoast Parkway 2 Segment 3A from CR 486 to CR 495 in Citrus County, Florida. We request public comment on the application, which includes the applicant's habitat conservation plan (HCP), and on the Service's preliminary determination that this proposed ITP qualifies as low effect, and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Proposed Project

The applicant requests a 10-year ITP to take eastern indigo snakes via the conversion of approximately 28 acres (ac) of suitable eastern indigo snake foraging and sheltering habitat incidental to the construction of the Suncoast Parkway 2 Segment 3A from CR 486 to CR 495, located in Section 34, Township 17S, Range 17E; Sections 2–4, 9, 11, 13–14, 24 Township 18S, Range 17E; and Sections 19, 30, Township 18S, Range 18E, Citrus County, Florida. The applicant proposes to mitigate for take of the eastern indigo snake through a contribution of $4,564 to the Fish and Wildlife Foundation of Florida's Eastern Indigo Snake Conservation Fund. The Service would require the applicant to make this purchase prior to engaging in any construction activities associated with the project.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's proposed project, including the construction of the Suncoast Parkway 2 Segment 3A and associated infrastructure (such as land clearing, toll facilities, and storm water ponds), would individually and cumulatively have a minor or negligible effect on the

eastern indigo snake and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a low-effect ITP that individually or cumulatively would have a minor effect on the eastern indigo snake and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect incidental take permit is one that would result in (1) minor or negligible effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER 8411208 to Florida Department of Transportation—Florida's Turnpike Enterprise.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Robert L. Carey,

Manager, Division of Environmental Review, Florida Ecological Services Field Office.

[FR Doc. 2024–06892 Filed 4–1–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–37618; PPWOCRADP2, PCU00RP14.R50000]

National Historic Landmarks Committee of the National Park System Advisory Board Meeting

AGENCY: National Park Service.

ACTION: Meeting notice.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Historic Landmarks Committee (Committee) of the National Park System Advisory Board (Board) will meet as indicated below.

DATES: The meeting will be held on Tuesday, May 14 and Wednesday, May 15, 2024, from 10 a.m. to 4 p.m. (EASTERN).

ADDRESSES: The meeting will be held virtually at the date and time noted above and instructions and access information will be provided online at *https://www.nps.gov/subjects/nationalhistoriclandmarks/nhl-committee-meetings.htm.* Please check the program website at *https://www.nps.gov/subjects/nationalhistoriclandmarks/index.htm* for the most current meeting information.

FOR FURTHER INFORMATION CONTACT: Dr. Lisa Davidson, Program Manager, National Historic Landmarks Program, National Park Service, 1849 C Street NW, Mail Stop 7228, Washington, DC 20240, or email *Lisa_Davidson@nps.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The purpose of the meeting of the Committee is to evaluate nominations of historic properties in order to advise the Board of the qualifications of each property being proposed for National Historic Landmark designation, and to make recommendations regarding the possible designation of those properties as National Historic Landmarks to the Board at a future meeting. The Committee also makes recommendations to the Board regarding amendments to existing designations and proposals for withdrawal of designation. The members of the Committee are:

Dr. Lindsay Robertson, Chair
Dr. David G. Anderson
Dr. Ethan Carr
Dr. Julio Cesar Capó
Dr. Cynthia G. Falk
Dr. Victor Galen
Dr. Richard Longstreth
Dr. Alexandra M. Lord
Dr. Vergil E. Noble
Mr. Adam Smith
Dr. Sharita Jacobs Thompson
Dr. Carroll Van West
Dr. Richard Guy Wilson

Meeting Accessibility/Special Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

The meeting will be open to the public. Pursuant to 36 CFR part 65, any member of the public may file, for consideration by the Committee, written comments concerning the National Historic Landmark nominations, amendments to existing designations, or proposals for withdrawal of designation. Comments should be submitted to Sherry A. Frear, Chief, National Register of Historic Places and National Historic Landmarks Program, National Park Service, 1849 C Street NW, Mail Stop 7228, Washington, DC 20240, or email *nhl_info@nps.gov.* All comments received will be provided to the Committee and the Board.

Purpose of the Meeting: The Board and its Committee may consider the following nominations:

California

TOR HOUSE (ROBINSON JEFFERS HOME), Carmel-by-the-Sea, CA

SUMMIT CAMP, Placer and Nevada Cos., CA

Colorado

BOULDER COUNTY COURTHOUSE, Boulder, CO

District of Columbia

LUCY DIGGS SLOWE AND MARY BURRILL HOUSE, Washington, DC

District of Guam

MANENGGON CONCENTRATION CAMP, Yona, GU

Louisiana

MR. CHARLIE OFFSHORE OILRIG, Morgan City, LA

New York

WINGED FOOT GOLF COURSE, Mamaroneck, NY

North Carolina

F.W. WOOLWORTH CO. BUILDING, Greensboro, NC

North Carolina and Virginia

BLUE RIDGE PARKWAY, multiple, NC and VA

Virginia

LOUDOUN COUNTY COURTHOUSE, Leesburg, VA

AZUREST SOUTH, Petersburg, VA

Proposed Amendments to Existing Designations:

Maryland

MONOCACY BATTLEFIELD (Updated Documentation), Frederick, MD

Virginia

FORT MONROE (Updated Documentation), Hampton, VA

Washington

FORT WORDEN (Updated Documentation), Port Townsend, WA

Proposed Withdrawal of Existing Designations:

Hawai'i

FALLS OF CLYDE (FOUR-MASTED OIL TANKER), Honolulu, HI

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 36 CFR 65.5)

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2024–06966 Filed 4–1–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–MAMC–37367; PPNCNACEN0, PPMPSAS1Z.Y00000]

Request for Nominations for the Mary McLeod Bethune Council House National Historic Site Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members of the Mary McLeod Bethune Council House National Historic Site Advisory Commission (Commission).

DATES: Written nominations must be postmarked by May 2, 2024.

ADDRESSES: Nominations should be sent to Tara Morrison, Superintendent and Designated Federal Officer, National Capital Parks-East, 1900 Anacostia Drive SE, Washington, DC 20020, or by email *nace_superintendent@nps.gov* with *MAMC Nomination* in the subject line.

FOR FURTHER INFORMATION CONTACT: Tara Morrison, via telephone (771) 208–1450, or by email *nace_superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION: The Commission was authorized on December 11, 1991, by Public Law 102–211 (54 U.S.C. 320101 formerly 16 U.S.C. 461 note), for the purpose of advising the Secretary of the Interior in the implementation of a general management plan for the Mary McLeod Bethune Council House National Historic Site. The Commission is to fully participate in an advisory capacity with the Secretary of the Interior in the development of the General Management Plan for the historic site. The Commission will also, as often as necessary, but at least semiannually, meet and consult with the Secretary on matters relating to the management and development of the historic site.

The Commission shall be composed of 15 members appointed by the Secretary of the Interior for 4-year terms, as follows: (1) three members appointed from recommendations submitted by the National Council of Negro Women, Inc.; (2) two members appointed from recommendations submitted by other national organizations in which Mary McLeod Bethune played a leadership role; (3) two members who shall have professional expertise in the history of African American women; (4) three members who shall have professional expertise in archival management; (5) three members who shall represent the general public; and (6) two members who shall have professional expertise in historic preservation. We are currently seeking nominees from recommendations submitted by other national organizations in which Mary McLeod Bethune played a leadership role.

Nominations should be typed and include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member. All documentation, including letters of recommendation, must be compiled and submitted in one complete package. All those interested in membership, including current members whose terms are expiring, must follow the same nomination process. Members may not appoint deputies or alternates.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members will be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5 of the United States Code.

Authority: 5 U.S.C. Ch. 10.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2024–06965 Filed 4–1–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–CHOH–37545; PPNCCHOHS0–PPMPSPD1Z.YM0000]

Chesapeake and Ohio Canal National Historical Park Commission Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, as amended, the National Park Service (NPS) is hereby giving notice that the Chesapeake and Ohio Canal National Historical Park Commission (Commission) will meet as indicated below.

DATES: The in-person meeting will take place on Monday, May 6, 2024. The meeting will begin at 10 a.m. until 2 p.m. (EASTERN), with an hour-long lunch break.

ADDRESSES: The meeting will be held in the public conference room at park headquarters, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, MD 21795. Individuals that prefer to participate virtually must contact the person listed in the (see **FOR FURTHER INFORMATION CONTACT**) section at least five (5) business days prior to the meeting. For updated information please see *https://www.nps.gov/choh/learn/news/federal-advisory-commission.htm* or email *choh_information@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Tina Cappetta, Superintendent, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, MD 21795, or via telephone at (301) 491–3374, or by email *tina_cappetta@nps.gov.*

SUPPLEMENTARY INFORMATION: The Commission was established on January 8, 1971, under 16 U.S.C. 410y–4, as amended, and is regulated by the Federal Advisory Committee Act. Appendix D, Division B, Title I, section 134 of Public Law 106–554, December 21, 2000, and section 1 of Public Law 113–178, September 26, 2014, respectively. The Commission will terminate on September 26, 2024, unless reauthorized by Congress.

Purpose of the Meeting: The agenda will include discussion of park updates and outline goals for Fiscal Year 2024 and beyond. The final agenda will be posted on the park's website at *https://www.nps.gov/choh/learn/news/federal-advisory-commission.htm.* The website includes meeting minutes from all prior meetings. The meeting is open to the public.

Interested persons may present, either orally or through written comments, information for the Commission to consider during the public meeting. Written comments will also be accepted prior to, during, or after the meeting.

Members of the public may submit written comments by mailing them to Erin Cowan, Assistant to the Superintendent, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, MD 21795, (301) 491–3374, or by email *choh_information@nps.gov.* Comments sent via email should include *Comments for May 2024 Advisory Commission Meeting* in the subject line. All written comments will be provided to members of the Commission.

Depending on the number of people wishing to comment and the time available, the amount of time for oral comments may be limited. All comments will be made part of the public record and will be electronically distributed to all Commission members. Detailed minutes of the meeting will be available for public inspection within 90 days of the meeting.

Meeting Accessibility/Special Accommodations: The meeting is open to the public. Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the (see **FURTHER INFORMATION CONTACT**) section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

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.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your written comments, you should be aware that your entire comment including your personal identifying information will be made publicly available. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 5 U.S.C. Ch. 10)

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2024–06964 Filed 4–1–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1364]

Certain Blood Flow Restriction Devices With Rotatable Windlasses and Components Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on March 19, 2024, the presiding administrative law judge (''ALJ'') issued a Recommended Determination on Remedy and Bond in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: Joelle P. Justus, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 617–1998. 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.* 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 on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)). A similar provision applies

to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a general exclusion order directed to certain blood flow restriction devices with rotatable windlasses and components thereof that infringe claims 1, 4, 15, and 16 of U.S. Patent No. 7,842,067 (''the '067 patent'') that are imported, sold for importation, and/or sold after importation; a limited exclusion order directed to certain blood flow restriction devices with rotatable windlasses and components thereof that infringe claims 1, 4, 15, and 16 of the '067 patent, infringe U.S. Trademark Registration Nos. 3,863,064 and 5,046,378, and/or infringe the asserted Trade Dress and that are imported, sold for importation, and/or sold after importation by Respondents Anping Longji Medical Equipment Factory; Dongguanwin Si Hai Precision Mold Co., Ltd.; Eiffel Medical Supplies Co., Ltd.; Empire State Distributors Inc.; EMRN Medical Equipment; GD Tianwu New Material Tech Co., Ltd.; Hengshui Runde Medical Instruments Co., Ltd.; Putian Dima Trading Co., Ltd.; Rhino Inc.; Shanghai Sixu International Freight Agent Co., Ltd.; Shenzhen Anben E-Commerce Co., Ltd.; Shenzhen TMI Medical Supplies Co., Ltd.; Shenzhen Yujie Commercial and Trading Co., Ltd.; Wuxi Emsrun Technology Co., Ltd.; Wuxi Golden Hour Medical Technology Co., Ltd.; and Wuxi Puneda Technology Co., Ltd. (collectively, ''Defaulting Respondents''); and cease and desist orders directed to each Defaulting Respondent. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bond issued in this investigation on March 19, 2024. Comments should address whether issuance of the recommended remedial orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on April 26, 2024.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1364'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of 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 25, 2024.

Katherine Hiner,

Supervisory Attorney.

[FR Doc. 2024–06897 Filed 4–1–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0043]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Drug Use Statement

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Drug Enforcement Administration, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on December 24, 2024 allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until June 3, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public

burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kannessia Jordan, Section Chief, Office of Compliance, Policy Administration Section, 700 Army Navy Drive, Arlington, VA 22202, telephone: 571–776–2262, email: *Kannessia.S.Jordan@DEA.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number 1117–0043. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Drug Questionnaire.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: DEA–341 (Common Form). The sponsoring component is the Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond: Affected Public:* Individuals or households. *Abstract:* This collection requires the drug history of any individual seeking employment with DEA. DEA policy states that a past history of illegal drug use may result in ineligibility for employment. The form asks job applicants specific questions about their personal history, if any, of illegal drug use.

5. The obligation to respond is voluntary but applications will not be reviewed without the completion of the form.

6. *An estimate of the total number of respondents:* The total or estimated number of respondents for the Drug Questionnaire is 4,727.

7. *The amount of time estimated for an average respondent to respond:* The time per response is seven minutes.

8. *Frequency:* 1 per application or selection.

9. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 551 hours.

10. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: March 25, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–06955 Filed 4–1–24; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 024–025]

Aerospace Safety Advisory Panel; Meeting.

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel (ASAP). The ASAP will hold its Second Quarterly Meeting for 2024. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight.

DATES: Wednesday, April 17, 2024, 3 p.m. to 4:30 p.m., central time.

ADDRESSES: Public attendance will be virtual only. See dial-in information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa M. Hackley, ASAP Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1947 or *lisa.m.hackley@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is only available telephonically. Any interested person must use a touch-tone phone to participate in this meeting. Any interested person may call the USA toll free conference call number 888–566–6133; passcode 8343253 and then the # sign. At the beginning of the meeting, members of the public may make a verbal presentation to the Panel limited to the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Lisa M. Hackley at *lisa.m.hackley@nasa.gov* or at (202) 358–1947 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel via electronic submission to Ms. Hackley at the email address previously noted. Written statements should be limited to the subject of safety in NASA.

The agenda for the meeting includes the following topics:

—Updates on the International Space Station Program
—Updates on the Commercial Crew Program

—Updates on the Moon to Mars Program

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Aerospace Safety Advisory Panel, Executive Director, National Aeronautics and Space Administration.

[FR Doc. 2024–06967 Filed 4–1–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–024]

Applied Sciences Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Applied Sciences Advisory Committee (ASAC). This Committee functions in an advisory capacity to the Director, Earth Science Division, in the NASA Science Mission Directorate. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, April 16, 2024, 8:30 a.m.–5 p.m., and Wednesday, April 17, 2024, 8:30 a.m.–4:30 p.m., eastern time.

ADDRESSES: For April 16, 2024, Public attendance will be virtual only. See dial-in and Webex information below.

For April 17, 2024, NASA Headquarters, Room 3W42, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public for in-person attendance only on April 17, 2024, up to the capacity of the meeting room. This meeting is also available telephonically and by WebEx for both days. You must use a touch-tone phone to participate in this meeting. For the first day, April 16, 2024, any interested person may call the USA toll number +1–415–527–5035 or USA toll (Chicago) +1–312–500–3163, Access code: 2824 307 9953, to participate in this meeting by telephone. The WebEx link is *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=me2e237d43d1df427dafffc99bfbb220e,* the meeting number is 2824 307 9953, webinar password: RKmHhJQ77$2 (75644577 from phones and video systems, case sensitive). For the second day, April 17, 2024 the USA toll number +1–415–527–5035 or USA toll (Chicago) number +1–312–500–3163, Access code: 2831 207 4547. The WebEx link is *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m9f7c7c87955497b26e38fac26bfe7557,* the meeting number is 2820 349 7902, webinar password is FJeQ6vmG?32 (35376864 from phones and video systems, case sensitive). The agenda for the meeting includes the following topics:

—Earth Science Division Update

—Earth Science to Action (ES2A) Strategy

—Earth Science Division Program Elements Updates

—Earth Action Program and Structure

The agenda will be posted on the ASAC web page: *https://science.nasa.gov/science-committee/subcommittees/nac-earth-science-subcommittee/asac/.*

All attendees are required to register in NASA's Enterprise Visitor Access Management System prior to visit. You will be requested to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters in addition to Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizens and Permanent Residents (green card holders) may provide full name, citizenship and email address no less than 3 working days in advance by contacting Ms. KarShelia Kinard via email at *karshelia.kinard@nasa.gov.*

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Carol J. Hamilton,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–06939 Filed 4–1–24; 8:45 am]

BILLING CODE P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–24–0007; NARA–2024–025]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by May 20, 2024.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-24-0007/document.* This is a direct link to the schedules posted in the docket for this notice on *regulations.gov.* You may submit comments by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq.*

If you are unable to comment via *regulations.gov,* you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control

number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Eddie Germino, Strategy and Performance Division, by email at *regulation_comments@nara.gov* or at 301–837–3758. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Energy, Agency-wide, Employee Training Records (DAA–0434–2020–0014).

2. Department of Health and Human Services, Administration for Strategic Preparedness and Response, Continuity of Operation (COOP) Records (DAA–0611–2023–0016).

3. Department of Health and Human Services, Administration for Strategic Preparedness and Response, Recovery Coordination Training Records (DAA–0611–2023–0019).

4. Department of Health and Human Services, Administration for Strategic Preparedness and Response, International Operations Records (DAA–0611–2023–0020).

5. Department of the Treasury, Internal Revenue Service, eAuth was Decommissioned in Fiscal Year 2023 (DAA–0058–2024–0003).

6. American Battle Monuments Commission, Agency-wide, Mission and Organization (DAA–0117–2023–0007).

7. Central Intelligence Agency, Agency-wide, Non-Employee Payment Records (DAA–0263–2022–0007).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2024–06924 Filed 4–1–24; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Fund Access for Credit Unions

ACTION: Notice of funding opportunity.

Funding Opportunity Title: Community Development Revolving Loan Fund (CDRLF) Grants.

Catalog of Federal Domestic Assistance (CFDA) Number: 44.002.

The National Credit Union Administration (NCUA) is issuing this Notice of Funding Opportunity (NOFO) to announce the availability of technical assistance grants (awards) for low-income-designated credit unions (LICUs) through the CDRLF. The CDRLF provides financial support in the form of loans and technical assistance grants that help credit unions support the communities in which they operate. All grant awards made under this NOFO are subject to funds availability and are at the NCUA's discretion.

Table of Contents

A. Program Description

The purpose of the Community Development Revolving Loan Fund (CDRLF) is to assist LICUs in providing basic financial services to their members and to stimulate economic activities in their communities. Through the CDRLF, the NCUA provides financial support in the form of technical assistance grants to eligible credit unions to modernize, build capacity, and extend outreach into underserved communities.

The NCUA will consider requests for various funding initiatives. More detailed information about the purpose of each initiative, amount of funds available, funding priorities, permissible uses of funds, funding limits, deadlines, and other pertinent details will be defined in the Grant Round Guidelines. In addition, the NCUA may periodically publish information regarding the CDRLF in Letters to Credit Unions, press releases, and/or on the agency website, *NCUA.gov.*

1. Funding Initiatives

The funding initiatives available during 2024 include:

i. Training;
ii. Digital Services and Cybersecurity;
iii. Consumer Financial Protection;
iv. MDI Capacity Building;
v. Underserved Outreach; and
vi. Impact Through Innovation.

2. Authority and Regulations

i. *Authority:* 12 U.S.C. 1772c–1, 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786; and Further Consolidated Appropriations Act, 2024, Public Law 118–47, Div. B, Title V (2024).

ii. *Regulations:* The regulation governing the CDRLF is found at 12 CFR part 705. In general, this regulation governs the CDRLF, and sets forth the program requirements. Additional regulations related to the low-income designation are found at 12 CFR 701.34 and 741.204. For the purposes of this NOFO, an ''Applicant'' is a Participating Credit Union that submits a complete application to the NCUA under the CDRLF. The NCUA encourages Applicants to review the regulations, this NOFO, the Grant Round Guidelines, and other program materials for a complete understanding of the program.

B. Award Information

Up to $3,465,000 in awards will be available through this NOFO. The NCUA reserves the right to: (i) award more or less than the amounts cited above; (ii) fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO; and (iii) reallocate funds available under this NOFO to other programs, particularly if the NCUA finds that the number of awards made under this NOFO is fewer than projected. General information about the purpose of each funding initiative and the maximum award amount is provided below. Additional initiative information will be detailed in the 2024 Community Development Revolving Loan Fund Grant Round Application Guidelines found on the NCUA's website.

1. Purpose of Funding Initiatives

i. *Training:* The training initiative aims to strengthen credit union management's leadership skills and promote succession planning. Credit unions will be able to use funds to develop a management succession plan or to enroll an employee in advanced training courses to enhance leadership skills and operational knowledge of credit unions. To direct grant funds to credit unions with the greatest need for resources, credit unions with assets in excess of $100 million are not eligible for funding under this initiative.

ii. *Digital Services and Cybersecurity:* This initiative is intended to increase access to safe, fair, and affordable digital financial products and services. Applicants can request funding for equipment needed to improve their remote work posture, upgrade equipment to current industry standards, or implement new financial products and services that provide members access to the credit union without physical access to the branch. Cybersecurity activities include cybersecurity training for board members and employees, procurement of software and hardware required for cybersecurity upgrades, contracts for external security services, business continuity, development or implementation of an incident response plan, vulnerability scans, or IT auditing and testing. To direct grant funds to credit unions with the greatest need for resources, credit unions with assets in excess of $250 million are not eligible for funding under this initiative.

iii. *Consumer Financial Protection:* The purpose of this initiative is to ensure credit unions have the resources and expertise to protect credit union members and consumers, raise awareness of potential frauds, and facilitate access to fair and affordable financial services. Many credit unions need additional expertise, systems, and support to ensure consumer financial protection. Under this initiative, credit unions can obtain the resources, such as consultants, to train staff on consumer financial protection laws and regulations. To ensure funds for these activities reach credit unions with the greatest need for resources, credit unions with assets in excess of $500 million are not eligible for funding under this initiative.

iv. *MDI Capacity Building:* The purpose of funding initiatives for low-income-designated MDIs is to support and help preserve these institutions in furtherance of Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Low-income-designated MDI credit unions are often challenged to fund training for staff and volunteers or invest in technological upgrades, growth, and expansion. The MDI Capacity Building initiative will provide larger awards to low-income designated MDIs for training, mentoring, implementing new products and services, strategic planning, outreach, opening a new service facility in an underserved community, and other capacity building activities. This initiative allows these credit unions to undertake the many activities required to grow and meet the unique needs of their members. Only low-income-designated credit unions that also have self-designated as Minority Depository Institutions as of the date of their grant application are eligible for funding under this initiative. To ensure funds for these activities reach credit unions with the greatest need regardless of size, no asset limitations will be placed on applicants for this initiative.

v. *Underserved Outreach:* The Underserved Outreach initiative will help credit unions implement innovative outreach strategies to help close the wealth gap in underserved communities and for minority, veteran, and immigrant populations through new or expanded outreach efforts, such as opening a new service facility in an underserved community, creating financial education programs, and offering financial products and services. To ensure funds for these activities reach credit unions with the greatest need regardless of size, no asset limitations will be placed on applicants for this initiative.

vi. *Impact Through Innovation:* The NCUA's priority for the CDRLF is to support the growth of credit unions and make a positive impact on communities that are financially underserved. Providing greater support will require larger awards and longer performance periods. The Impact Through Innovation initiative will encourage credit unions to meet challenges affecting underserved communities, targeting banking deserts, affordable housing, credit invisibles, and financial technologies (fintechs) in new ways. As

part of the 2023 CDRLF Pilot grant initiative, funds will be available only to credit unions that received a 2023 CDRLF Pilot grant under the Impact Through Innovation initiative. The Impact Through Innovation initiative is a multi-year award implemented as a continuation grant. Funds are available for the second performance period of these projects. Credit unions are eligible to receive funding up to $100,000 in 2024. Subsequent awards are dependent on successful project performance and the availability of future congressional appropriations. See the 2023 Community Development Revolving Loan Fund Pilot Grant Application Guidelines for additional details.

2. Maximum Award Amount

The maximum amount for a CDRLF award is determined by the funding initiative. There is no minimum amount for CDRLF awards. The maximum award amount for each funding initiative is provided below.

i. Training—$5,000
ii. Digital Services and Cybersecurity—$10,000
iii. Consumer Financial Protection—$10,000
iv. MDI Capacity Building—$50,000
v. Underserved Outreach—$50,000
vi. Impact Through Innovation—$100,000

C. Eligibility Information

1. Eligible Applicants

This NOFO is open to low-income-designated credit unions that meet the eligibility requirements defined in 12 CFR part 705.

i. *Non-Federally Insured Applicants:* Each Applicant that is a non-federally insured, state-chartered credit union must submit additional application materials. These additional materials are more fully described in 12 CFR 705.7(b)(3) and in the application.

a. Non-federally insured, state-chartered credit unions must agree to be examined by the NCUA. The specific terms and covenants pertaining to this condition will be provided in the award agreement of the Participating Credit Union.

2. Employer Identification Number

Each application must include a valid and current Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (IRS). The NCUA will not consider an application that does not include a valid and current EIN. Such an application will be deemed incomplete and will be declined. Information on how to obtain an EIN may be found on the IRS' website.

3. System for Award Management

All Applicants are required by federal law to have an active registration with the federal government's System for Award Management (SAM) prior to applying for funding. SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the Federal Government's trading partners in support of the contract awards, grants, and electronic payment processes. *An active SAM account status and unique entity identifier (UEI) number are required to apply for a CDRLF grant. Credit unions receive a UEI upon registration in SAM.* Once registered, credit unions must recertify and maintain an active status annually. There is no charge for the SAM registration and recertification process. SAM users can register or recertify their account by following the instructions for registration. The NCUA will not consider an applicant that does not have an active SAM status.

4. Other Eligibility Requirements

i. *Financial Viability:* Applicants must meet the grant award standards established by the NCUA, including those pertaining to financial viability, as set forth in the application and defined in 12 CFR 705.7(b) and 705.7(c).

ii. *Compliance with Past Agreements:* In evaluating funding requests under this NOFO, the NCUA will consider an Applicant's record of compliance with past agreements. The NCUA, in its sole discretion, will determine whether to consider an application from an Applicant with a past record of noncompliance, including any deobligation of funds (removal of unused awards).

a. If an Applicant is in default of a previously executed agreement with the NCUA, the NCUA will not consider an application for funding under this NOFO.

b. If an Applicant is a prior Participating Credit Union under the CDRLF and has unused awards as of the date of application, the NCUA may request a narrative from the Applicant that addresses the reason for its record of noncompliance. The NCUA, in its sole discretion, will determine whether the reason is sufficient to proceed with the review of the application.

D. Application and Submission Information

1. Application

Under this NOFO, all applications must be submitted online in the NCUA's web-based application system, CyberGrants, to be considered. Applications must be submitted online at *https://www.cybergrants.com/ncua/applications.* The application and related documents are also located on the NCUA's website at *https://www.ncua.gov/services/Pages/resources-expansion/grants-loans.aspx.*

2. Minimum Application Content

A complete application will consist of similar components for each funding initiative. At a minimum, each initiative requires a narrative that describes the Applicant's proposed use of the CDRLF award. The NCUA may waive this requirement for funding initiatives with a defined list of allowable project activities. The NCUA will identify the funding initiatives that do not require a narrative response in the grant round guidelines. Other application contents that are specific to a particular funding initiative will be defined in the grant round guidelines found on the NCUA's website.

3. Submission Dates and Times

The NCUA will accept applications beginning May 1, 2024, at 9 a.m. Eastern. Applications must be submitted by July 1, 2024 at 11:59 p.m. Eastern. Late applications will not be considered.

E. Application Review Information

1. Eligibility and Completeness Review

The NCUA will review each application to determine whether it is complete and that the Applicant meets the eligibility requirements described in the regulations, the Grant Round Guidelines, and in this NOFO. An incomplete application or one that does not meet the eligibility requirements may be declined without further consideration.

2. Evaluation Criteria

Each funding initiative, due to its structure and impact, may have different evaluation criteria assigned. The evaluation criteria for each funding initiative are fully described in the Grant Round Guidelines.

3. Application Review

The purpose of the application review is to determine whether an application satisfies the criteria for the applicable funding initiative. The NCUA will evaluate each application for adherence to the grant round guidelines. The NCUA may contact the Applicant during its review to clarify or confirm information in the application. The Applicant must respond within the time specified by the NCUA or the NCUA, in its sole discretion, may decline the

application without further consideration.

4. Scoring and Funding Decision

The NCUA uses a scoring system that establishes a ranking position for each application. The applications will be ranked according to the scoring criteria set forth for each funding initiative in the Grant Round Guidelines.

F. Federal Award Administration

1. NCUA Award Notice

The NCUA will notify each Applicant of its funding decision by email. In addition, the NCUA will announce the successful applications through a press release that includes a list of the Awardees. Applicants that are approved for funding will also receive instructions on how to proceed with the post-award activities.

2. Administrative and National Policy Requirements

i. *Award Agreement:* The specific terms and conditions will be established in the award agreement each Participating Credit Union must sign prior to formally accepting an award. Each Participating Credit Union under this NOFO must enter into an agreement with the NCUA before the NCUA will disburse the award funds. The agreement includes the terms and conditions of funding, including but not limited to the (i) award amount, (ii) grant award details, (iii) accounting treatment, (iv) signature pages, and (v) reporting requirements.

ii. *Failure to Sign Agreement:* The NCUA, in its sole discretion, may rescind an award if the Applicant fails to sign and return the agreement or any other requested documentation, within the time specified by the NCUA.

3. Payment Process

Awardees will be responsible for the timely completion of all post-award activities. This includes, but it is not limited to, signing the award agreement and completing a payment request for the awarded funds. The payment requirements vary by funding initiative and are detailed in the application and post-award guidelines.

The payment request may require, all or a combination of the following items: (i) certification of expenses; (ii) project related documentation; (iii) a summary of project accomplishments and outcomes; or (iv) a certification form signed by a credit union official (such as CEO, manager, or Board Chairperson) authorized to request the payment and make the certifications. The NCUA, in its sole discretion, may modify these requirements. Additional payment request requirements will be described in the post-award guidelines.

G. Federal Awarding Agency

1. Methods of Contact

Further information can be found at *https://www.ncua.gov/services/Pages/resources-expansion/grants-loans.aspx.* For questions related to the CDRLF, email the NCUA's Office of Credit Union Resources and Expansion at *CUREAPPS@ncua.gov.*

2. Information Technology Support

People who have visual or mobility impairments that prevent them from using the NCUA's website should call (703) 518–6610 for guidance (this is not a toll-free number).

H. Grant Terms and Conditions

1. Every Applicant Must Certify it Meets and Agrees to the Following Terms and Conditions Prior To Submitting an Application

i. Applicant is a low-income-designated credit union, as defined in Section 701.34 of the NCUA's Rules and Regulations.

ii. Applicant shall comply with U.S. Office of Management and Budget, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

iii. Applicants are required to have an audit conducted if they hold $750,000 or more in Federal awards during a fiscal year. Applicants that hold less than $750,000 in Federal awards are exempt from this requirement.

For example, if a credit union uses a $250,000 loan from the NCUA's CDRLF and a $500,000 grant from the Community Development Financial Institutions Fund, totaling $750,000 in Federal awards during the same fiscal year, then the credit union must have an audit conducted.

iv. Applicant is responsible for the efficient and effective administration of the Federal Award through application of sound management practices. Applicant assumes the responsibility for administering Federal Funds in a manner consistent with underlying agreements, program objectives, and the term and conditions of the Federal Award.

v. No employee, contractor, consultant, or vendor has participated substantially for this grant-funded activity, nor otherwise benefited directly or indirectly from the grant, who, to its knowledge (assuming reasonable diligence), has a ''covered relationship'' with an NCUA employee who presently holds a position that would enable him or her to influence a pending or future grant award, or a payment of permitted expenses thereunder.

vi. An employee, contractor, consultant, or vendor of the Applicant would have such a ''covered relationship'' if he or she were either: (1) a member of the household of an NCUA employee who presently holds a position that would enable him or her to influence a pending or future grant award, or a payment thereunder; or (2) a relative of such an NCUA employee with whom he or she has a close personal relationship. 5 CFR 2635.502(b)(1)(ii).

vii. Applicant must disclose in writing to the NCUA any potential conflict of interest in accordance with applicable Federal awarding agency policy.

viii. Per 2 CFR 200.113, Applicant must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award.

ix. The Applicant conducts its activities such that no person is excluded from participation in, is denied the benefits of, or is subject to discrimination on the basis of race, color, national origin, sex (including pregnancy, sexual orientation, or gender identity), age, or disability in the distribution of services and/or benefits provided under this grant program. The credit union agrees to provide evidence of its compliance as required by the NCUA. Furthermore, credit unions should ensure compliance with title VI of the Civil Rights Act of 1964.

x. If a credit union enters into commitments for a project before the grant decision is made, the credit union will be obligated to pay project expenses from its own funds should the grant not be approved; if the grant is approved, the credit union may request payment for expenses incurred as of the publication date of the notice of funding opportunity associated with this funding round.

xi. Requests to reallocate or change approved project(s) and/or request an extension to the deadline must be submitted in writing prior to the original deadline and approved by the NCUA prior to Applicant incurring expenses.

xii. The Applicant is aware that the NCUA will correspond with the credit union regarding this application by email, using the email address provided in this application.

xiii. Applicant hereby acknowledges that the NCUA reserves full discretion to deny payment under this grant in the event the NCUA determines the Applicant is, or previously was, either

in breach of any condition or limitation in the grant guidelines or in breach of the 'covered relationship' restriction set forth above.

xiv. Information included in Outcome Summary or Success Stories is considered by the NCUA to be Research Data and is governed by 2 CFR 200.315 and may be made publicly available.

xv. Applicant is aware that any false, fictitious, or fraudulent information or the omission of any material fact may subject Applicant to criminal, civil or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code title 18, section 1001 and title 31, sections 3729–3730, and 3801–3812).

xvi. Applicant is aware recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system in accordance with Public Law 115–232, section 889 and 2 CFR 200.216.

xvii. Applicants receiving payment in advance must maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability.

By the National Credit Union Administration Board.

Ji Kwon,

Acting Secretary of the Board.

[FR Doc. 2024–06962 Filed 4–1–24; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Revision of Agency Information Collection of a Previously Approved Collection; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act of 1995, The National Credit Union Administration (NCUA) is submitting the following extensions and revisions of currently approved collections to the Office of Management and Budget (OMB) for renewal.

DATES: Written comments should be received on or before May 2, 2024 to be assured consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Mahala Vixamar at (703) 718–1155, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0102.

Title: Truth in Lending (TILA); Regulation Z.

Type of Review: Revision of a currently approved collection.

Abstract: The Truth in Lending Act (TILA) was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers and to protect consumers against inaccurate and unfair credit billing practices. TILA has been revised numerous times since it took effect, notably by passage of the Fair Credit Billing Act of 1974, the Consumer Leasing Act of 1976, the Truth in Lending Simplification and Reform Act of 1980, the Fair Credit and Charge Card Disclosure Act of 1988, and the Home Equity Loan Consumer Protection Act of 1988. Historically, TILA was implemented by the Board of Governors of the Federal Reserve System's (FRB) Regulation Z, 12 CFR part 226. The Dodd-Frank Wall Street Reform and Consumer Protection Act transferred FRB's rulemaking authority for TILA to the Consumer Financial Protection Bureau (CFPB).

Regulation Z contains several provisions that impose information collection requirements: The information collection requirements for open-end credit products; the information collection requirements for closed-end credit; the information collection requirements that apply to both open- and closed-end mortgage credit; the information collection requirements for specific residential mortgage types-namely, reverse mortgages and high cost mortgages with rates and fees above specified thresholds; the information collection requirements for private education loans; and information collection requirements related to Regulation Z's advertising and record retention rules.

The collection of information pursuant to Part 1026 is triggered by specific events and disclosures and must be provided to consumers within the time periods established under the regulation. To ease the compliance cost (particularly for small credit unions), model forms and clauses are appended to the regulation.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 4,622.

Estimated Number of Responses per Respondent: 9,239.392.

Estimated Total Annual Responses: 42,704,470.

Estimated Hours per Response: .08541.

Estimated Total Annual Burden Hours: 3,647,389.

Reason for Change: The number of responses per respondent increased and the estimated hours per response increased.

OMB Number: 3133–0180.

Title: Liquidity and Contingency Funding Plans, 12 CFR 741.12.

Type of Review: Revision of a currently approved collection.

Abstract: Section 741.12 establishes a three-tier framework for FICUs, based on asset size. FICUs with assets under $50 million must maintain a basic policy, those with assets of $50 million and over must maintain a contingency funding plan, and those with assets over $250 million must maintain a contingency funding plan and establish a federal liquidity contingency source. The reviews will conclude if federally insured credit unions are maintaining appropriate liquidity levels for the amount of balance sheet risk exposure and help prevent losses to credit unions and the NCUSIF.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 4,645.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 4,645.

Estimated Hours per Response: .87589.

Estimated Total Annual Burden Hours: 4068.50.

Reason for Change: The number of respondents decreased.

OMB Number: 3133–0186.

Title: Higher-Risk Mortgage Appraisals.

Type of Review: Revision of a currently approved collection.

Abstract: Section 1471 of the Dodd-Frank Act established Truth in Lending section 129H, which contains appraisal requirements applicable to higher-risk mortgages and prohibits a creditor from extending credit in the form of a higher-

risk mortgage loan to any consumer without meeting those requirements. A higher-risk mortgage is defined as a residential mortgage loan secured by a principal dwelling with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by certain enumerated percentage point spreads. This statutory requirement is promulgated in 12 CFR part 1026, Regulation Z, by the Bureau of Consumer Financial Protection, the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Federal Housing Finance Authority, the NCUA, and the Office of the Comptroller of the Currency. The information collections are required by statute, are necessary to protect consumers, and promote the safety and soundness of creditors making higher-risk mortgage loans.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 1,879.

Estimated Number of Responses per Respondent: .46.

Estimated Total Annual Responses: 864.34

Estimated Hours per Response: .25.

Estimated Total Annual Burden Hours: 216.09.

Reason for Change: The number of respondents decreased.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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 the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Ji Kwon,

Acting Secretary of the Board.

[FR Doc. 2024–06953 Filed 4–1–24; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; NSF Non-Academic Research Internships for Graduate Students (INTERN) Program

AGENCY: National Science Foundation (NSF).

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by June 3, 2024 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite E7400, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: NSF INTERN Program Assessment.

OMB Number: 3145–0259.

Expiration Date of Approval: 09/30/2024.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Fostering the growth of a globally competitive and diverse research workforce and advancing the scientific and innovation skills of the Nation is a strategic objective of the National Science Foundation (NSF). The Nation's global competitiveness depends critically on the readiness of the Nation's Science, Technology, Engineering and Mathematics (STEM) workforce and NSF seeks to continue to invest in programs that directly advance this workforce.

As part of this effort, NSF invests in a number of graduate student preparedness activities to ensure they are well-prepared for the 21st century STEM Workforce and a supplemental funding opportunity is available to provide support for graduate students through non-academic research internships (INTERN Program) in any sector of the U.S. economy.

The goal of the INTERN program is three-fold:

1. To provide graduate students with the opportunity to augment their research assistantships with non-academic research internship activities and training opportunities that will complement their academic research training;

2. To allow graduate students to pursue activities aimed at acquiring professional development experience that will enhance their preparation for multiple career pathways after graduation; and

3. To encourage the participation of graduate students from groups that have traditionally been underrepresented and underserved in the STEM enterprise: women, persons with disabilities, African Americans/Blacks, Hispanic Americans, American Indian, and Alaska Natives.

Since 2017, the NSF's INTERN program has expanded with supports from other federal agency partners; as of March 2024, NSF has six (6) INTERN funding opportunities providing participants with direct access in exploring career pathways across various federal agencies and/or government laboratories:

- Non-Academic Research Internships for Graduate Students (INTERN) Supplemental Funding Opportunity (NSF 21–013)
- Research Internships for Graduate Students at Air Force Research Laboratory (NSF–AFRL INTERN) Supplemental Funding Opportunity (NSF 21–029)
- Non-Academic Research Internships for Graduate Students in Geothermal Energy Supplemental Funding Opportunity (Geothermal INTERN) (NSF 23–024)
- Directorate for Geosciences (GEO) Opportunity for Graduate Students Supplemental Funding to Link Geosciences and Human Health (GeoHealth INTERN) (NSF 23–112)
- Graduate Research Internships in Forensic Science and Criminal Justice Contexts (NSF–NIJ INTERN) Supplemental Funding Opportunity (NSF 23–150)
- Research Internships for Graduate Students at U.S. Army Combat Capabilities Development Command Army Research Laboratory and Ground Vehicle Systems Center

(NSF–DEVCOM INTERN) Supplemental Funding Opportunity (NSF 24–071)

In order to support the agency's mission and continue meeting the program's goals, we are asking the graduate students who participated in the INTERN program to report the following information on:

- Program Participant
  - Name
  - Academic institution
  - Type of research degree
  - Degree start and expected/conferred dates
  - Primary field of study
  - Demographic information
    - Sex
    - Race
    - Ethnicity
    - Disability status
    - Veteran status
- Logistics of the Internship
  - Start and end dates
  - Principal Investigator (supporting the internship)
  - Host organization
    - Location
    - Business sector
  - Host mentor
- Internship Experience
  - Primary and secondary work activities
  - Application of academic knowledge/skills learned
  - Hours worked
  - Job Training/skill development
  - Interaction with host mentor and/or other colleagues (professional network)
  - Work environment
  - Company culture
  - Project scope
  - Overall satisfaction
- Industry Best Practices & Skills Development
  - Introducing industry best practices to academic environment
  - Forthcoming publications and/or IP activities resulting from the internship
  - Experiential learning and professional preparation
- Post-graduate/Career Plans
  - General career direction after graduation
  - Helpfulness of the internship experience in making career choices
  - Likelihood of working at the host organization or similar organizations
- Impact of Covid–19 [only for respondents who postponed/delayed their internship due to the pandemic]
  - Hardship/challenges experienced
  - Change(s) in career plan
- General comments/feedback about the Program

Since the agency will not be able to receive feedback from students by way of annual reports, being able to collect this information will help the managing Program Directors to assess whether the INTERN program helps participants in terms of workforce development, career decisions, and professional preparation, thereby ensuring the program goals are met. In addition, these data will also allow NSF to evaluate the intellectual merit of the program, its broader impact in developing the STEM workforce and its potential to enhance the participation of underrepresented and underserved STEM communities in such traineeships. Finally, in compliance with the Evidence Act of 2019, information collected will be used in satisfying congressional requests, responding to queries from the public, informing the NSF's external Committees of Visitors who serve to evaluate the foundation, working with the NSF's Office of the Inspector General, and supporting the agency's policymaking and internal evaluation and assessment needs.

Information collected in this survey will include the name of the participants, their affiliated organizations, email addresses, and home states. These personal identifiable information (PII) are collected primarily for record tracking and organizing. In addition, questions pertaining to participants' gender, race, ethnicity, disability status, and veteran status will also be asked but those questions will be marked as voluntary. These PII data will be accessed only by the managing Program Directors, NSF senior management, and supporting staff conducting analyses using the data as authorized by NSF. Any public reporting of data will be in aggregate form, and any personal identifiers will be removed.

Use of the Information: The information collected is primarily for program assessment and agency internal evaluation.

Estimate burden on the public: Estimated 20 minutes per survey for 350 participants (per year) for a total of 7,000 hours per year.

Respondents: Graduate students who participate in the INTERN program.

Estimated number of respondents: 350 per year.

Average Time per Reporting: 20 minutes.

Frequency: Each participant will only be asked to submit the survey once.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

Dated: March 28, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–06970 Filed 4–1–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0053]

Application for Amendment to Facility Operating License Involving Proposed No Significant Hazards Consideration and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of one amendment request. The amendment request is for Watts Bar Nuclear Plant, Units 1 and 2. For the amendment request, the NRC proposes to determine that it involves no significant hazards consideration (NSHC). Because the amendment request contains sensitive unclassified non-safeguards information (SUNSI), an

order imposes procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by May 2, 2024. A request for a hearing or petitions for leave to intervene must be filed by June 3, 2024. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by April 12, 2024.

ADDRESSES: You may submit comments by any of the following methods, however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0053. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Angela Baxter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8209; email: *Angela.Baxter@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0053, facility name, unit number, docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0053.
- *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.*
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov/*). Please include Docket ID NRC–2024–0053, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

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

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

II. Background

Pursuant to Section 189a.(1)–(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes a notice of amendment containing SUNSI.

III. Notice of Consideration of Issuance of an Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment request involves NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for the amendment request is shown as follows.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action on the amendment prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination for the amendment, any hearing on the amendment will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity to Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 and on the NRC's public website a *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular

hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket numbers, date of application, ADAMS accession number, and location in the application of the licensee's proposed NSHC determination. For further details with respect to this license amendment application, see the application for amendment, publicly available portions of which is available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN	
Docket Nos	50–390, 50–391.
Application Date	December 26, 2023.
ADAMS Accession No	ML24003A270.
Location in Application of NSHC	Pages E5–70–E5–71 of Enclosure 5.
Brief Description of Amendment(s)	The proposed amendments would revise the Watts Bar Dual-Unit Updated Final Safety Analysis Report, section 2.4, ''Hydrologic Engineering,'' related tables and figures, and Appendix 2.4A, ''SOCH [Simulated Open Channel Hydraulics] Model,'' to reflect the results of a new hydrologic analysis.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 6A West Tower, 400 West Summit Hill Drive, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301–415–1627.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards

Information for Contention Preparation; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing or opportunity for hearing, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov, respectively*.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: March 12, 2024.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement or Affidavit for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Agreements or Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or notice of opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2024–05621 Filed 4–1–24; 8:45 am]

BILLING CODE 7590–01–P

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012, 78 FR 34247, June 7, 2013) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0199]

Information Collection: US NRC Acquisition Regulation

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''US NRC Acquisition Regulation.''

DATES: Submit comments by June 3, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking Website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0199. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0199 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0199. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2023–0199 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov*. The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML24061A106 and ML24061A108.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov*.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking Website (*https://www.regulations.gov*). Please include Docket ID NRC–2023–0199, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* US NRC Acquisition Regulation.
2. *OMB approval number:* 3150–0169.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* Monthly, once (at time of award), and on occasion (when changes occur).
6. *Who will be required or asked to respond:* Contractors and bidders.
7. *The estimated number of annual responses:* 6,258 (6,112 reporting responses + 146 recordkeepers).
8. *The estimated number of annual respondents:* 428.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 17,412 (14,834 reporting + 2,578 recordkeeping).
10. *Abstract:* The mandatory requirements of the Nuclear Regulatory Commission Acquisition Regulation (NRCAR) implement and supplement the government-wide Federal Acquisition Regulation (FAR) and ensure that the regulations governing the procurement of goods and services with the NRC satisfy the needs of the agency. This includes reports and recordkeeping requirements for certain contractors or offerors to submit a monthly progress report that summarizes work performed during the previous month, and/or retain records of equipment, payroll, inspection and quality control records, as applicable. Because of differing statutory authorities among Federal agencies, the FAR permits agencies to issue a regulation to implement FAR policies and procedures internally to satisfy the specific need of the agency. The NRCAR includes policies, procedures, solicitation provisions and contract clauses needed to ensure effective and efficient evaluation, negotiation, and administration of agency acquisitions. Certain reports, such as reports of

contractor organizational conflicts of interest or changes in key personnel are collected from contractors on as needed basis as changes occur whether at the time award or throughout the life of the contract. Some reports are required to be submitted monthly such as the Financial Status report and Technical Progress Report. There are also some reports that bidders are required to submit upon request, such as responses to pre-award questions that demonstrate their ability to meet minimum standards set forth in the Federal Acquisition Regulations.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.
2. Is the estimate of the burden of the information collection accurate? Please explain your answer.
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: March 28, 2024.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024–06923 Filed 4–1–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Week of April 8, 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of April 8, 2024

Tuesday, April 9, 2024

9:55 a.m. Affirmation Session (Public Meeting) (Tentative) Motion to Quash Subpoena in Missouri State Emergency Management Agency Investigation (Tentative) (Contact: Wesley Held: 301–287–3591)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meeting under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: March 29, 2024.

For the Nuclear Regulatory Commission.

Monika G. Coflin,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2024–07041 Filed 3–29–24; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99863; File No. SR–NYSEAMER–2024–22]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 7.18E

March 27, 2024.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 22, 2024, NYSE American LLC (''NYSE American'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.18E (Halts) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with the increase in overall reverse stock splits in recent years, the Exchange proposes to amend Rule 7.18E (Halts) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split.

Background

The Commission recently approved a proposal filed by The Nasdaq Stock Exchange (''Nasdaq'') providing for a regulatory halt at the end of trading on the day immediately before the market effective date of a reverse stock split and a delayed opening of the security on the market effective date of the reverse stock

split.[4] In its filing, Nasdaq noted that it had observed a recent increase in reverse stock split activity in the current market environment.

The Exchange has not itself experienced the increase in the number of reverse stock splits that Nasdaq described in its filings. Nevertheless, the Exchange proposes to adopt similar changes at the request of market participants who say that they would benefit from a consistent approach across exchanges with respect to regulatory halt rules around reverse stock splits. The Exchange believes that harmonizing its rules with Nasdaq's in this area would enhance investor protection and maintain fair and orderly markets by minimizing the chance that market participants might make erroneous trades in a security because they were unaware that it had undergone a reverse stock split.

Accordingly, the Exchange proposes to adopt amendments to its trading halt rules to require the Exchange to declare a regulatory halt in trading before the end of after-hours trading on the day immediately before the market effective date of a reverse stock split, and to open the security on the market effective date of a reverse stock split with a Trading Halt Auction [5] at 9:00 a.m. This proposed change is modeled on the recently-approved Nasdaq rule.

This change would help reduce the potential for market participants' misunderstanding of the impact on the value of the issuer' securities resulting from investors' lack of advance knowledge of the reverse stock split, as well as errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders.

Proposed Amendment to Rule 7.18E

The Exchange currently processes reverse stock splits overnight, with the security available for trading on other markets at 4:00 a.m.[6] and in the Exchange's Early Trading Session [7] starting at 7:00 a.m. on a split-adjusted basis. Market participants have recently expressed concerns with allowing trading on an adjusted basis during those early trading sessions, noting that it is not optimal because system errors or problems with orders may go unnoticed for a period of time when a security that has undergone a reverse stock split opens for trading with the other thousands of securities. These errors have the potential to adversely affect investors, market participants, and the issuer. For example, problems in connection with the processing of a reverse stock split could result in a broker executing trades selling more shares than customers held in their accounts, resulting in a temporary short position.

As such, the Exchange believes it is appropriate to impose a regulatory halt, which would prohibit pre-market trading immediately after a reverse stock split, and to re-open trading in such securities using a Trading Halt Auction. These changes would allow the Exchange and market participants to better detect any errors or problems with orders for the security resulting from the reverse stock split before trading in the security begins and thereby avoid any material effect on the market.

The Exchange proposes to add new subparagraph (f) to Rule 7.18E, which would provide that the Exchange would halt trading in a security for which the Exchange is the Primary Listing Market [8] before the end of the Late Trading Session [9] on the day immediately before the market effective date of the reverse stock split. Such a trading halt due to a reverse stock split would be mandatory pursuant to proposed Rule 7.18E(f). In general, the Exchange expects to initiate the halt at 7:50 p.m., prior to the end of the Late Trading Session at 8:00 p.m. on the day immediately before the split is effective.[10]

Proposed Rule 7.18E(f) would further provide that trading in the security would resume with a Trading Halt Auction at 9:00 a.m. on the day the reverse stock split is effective.[11] The Exchange believes that re-opening the security with a Trading Halt Auction at 9:00 a.m.—which is after the start of early trading on away markets and the Exchange but before the opening of the Exchange's Core Trading Session [12] at 9:30 a.m.—would allow market participants and the Exchange a better opportunity to notice errors or problems with orders for the security because it would be opening for trading at a unique time, and not at a time when thousands of other securities open for trading.[13] The Exchange believes that this halt and delayed opening [14] would give sufficient time for investors to review their orders and the quotes for the security and allow market participants to ensure that their systems have properly adjusted for the reverse stock split.[15]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[16] in general, and furthers the objectives of section 6(b)(5) of the Act,[17] in particular, because it is designed to prevent fraudulent and

[4] *See* Securities Exchange Act Release No. 98878 (November 7, 2023) (SR–NASDAQ–2023–036) (approving halt provisions with respect to reverse stock splits).

[5] The term ''Trading Halt Auction'' is defined in Rule 7.35E(e) as an auction ''to re-open trading in an Auction-Eligible Security following a halt or pause of trading in that security in either the Early Trading Session, Core Trading Session, or Late Trading Session, as applicable.''

[6] All times referred to in this filing are Eastern Time.

[7] The term ''Early Trading Session'' is defined in Rule 7.34E(a)(1) as the period of time beginning at 7:00 a.m. and concluding with the commencement of the Core Trading Session.

[8] The term ''Primary Listing Market'' is defined in Section XI(a)(i)(H) of the CTA Plan as ''the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchanges, Primary Listing Market means the exchange on which the security has been listed the longest.''

[9] The term ''Late Trading Session'' is defined in Rule 7.34E(a)(3) as the period of time following the conclusion of the Core Trading Session and concluding at 8:00 p.m.

[10] Initiating the halt at approximately 7:50 p.m. would provide the Exchange with a limited buffer to ensure that trading in a security that is undergoing a reverse stock split would not continue after the close of the Late Trading Session. While the Exchange does not anticipate halting a security that undergoes a reverse stock split sooner than 7:50 p.m., the Exchange may halt trading earlier than 7:50 p.m. for other reasons as described elsewhere in Rule 7.18E. The Exchange would provide notice of the halt through the SIP and on the Exchange's trading halt web page at *https://www.nyse.com/trade-halt.*

[11] The Exchange may change the resumption time if, for example, there was ''Extraordinary Market Activity,'' as defined in the CTA Plan, that could interfere with a fair and orderly resumption at the start of Core Trading Hours. The Exchange would provide notice of the re-opening of the security through the SIP and on the Exchange's trading halt web page at *https://www.nyse.com/trade-halt.*

[12] The term ''Core Trading Session'' is defined in Rule 7.34E(a)(2) as ''begin[ning]for each security at 9:30 a.m. Eastern Time and end[ing] at the conclusion of Core Trading Hours or the Core Closing Auction, whichever comes later. The Core Open Auction will begin the Core Trading Session.''

[13] The Exchange's proposal to re-open trading in a security that has undergone a reverse stock split with a Trading Halt Auction at 9:00 a.m. is substantively similar to the Commission-approved Nasdaq rule to reopen such securities with a Nasdaq Halt Cross at 9:00 a.m., after the start of early-market trading but before the start of Nasdaq's Regular Market Session at 9:30 a.m. *See* Nasdaq Rule 4120(b)(4)(D).

[14] Trading in a security that has undergone a reverse stock split would have a delayed opening because following the reverse stock split, the security would not be available for early-session trading at 4:00 a.m. on away markets or at 7:00 a.m. on the Exchange, but would instead re-open with a Trading Halt Auction at 9:00 a.m. Orders eligible for execution in the Early Trading Session (as defined in Rule 7.34E(a)(1)) that are entered before the 9:00 a.m. Trading Halt Auction and not canceled would be eligible to execute in the Trading Halt Auction.

[15] After resuming trading with a Trading Halt Auction at 9:00 a.m., the security would be eligible to trade for the remainder of the Early Trading Session and would then participate in a Core Open Auction at the start of the Core Trading Session.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

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.

The Exchange believes that the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system and protects investors and the public interest. The Exchange is proposing these changes at the request of market participants who say that they would benefit from a consistent approach across exchanges with respect to regulatory halt rules around reverse stock splits. As such, the Exchange believes that harmonizing its rules with Nasdaq's in this area would enhance investor protection and maintain fair and orderly markets by minimizing the chance that market participants might make erroneous trades in a security because they were unaware that it had undergone a reverse stock split.

The Exchange believes that its proposed rule change establishing a reverse stock split trading halt rule would protect investors by giving the Exchange non-discretionary authority to act in situations where it is necessary to maintain fair and orderly markets, such as when a security is subject to a reverse stock split and companies have not updated their systems to account for the new stock price. It would also ensure that the process for resuming trading following a reverse stock split halt is consistent with other types of halts initiated by the Exchange. Currently, none of the Exchange's rules provide authority to pre-emptively halt the trading in a security undergoing a significant corporate action that could lead to investor or market confusion.

The Exchange believes that the proposed amendments would provide greater transparency and clarity with respect to the manner in which trading would be halted due to a reverse stock split, and the process through which that halt would be implemented and terminated. Particularly, the Exchange would not have discretion in determining whether to declare a trading halt in a security following the declaration of a reverse stock split. Rather, following the reverse stock split of a security for which the Exchange is the Primary Listing Market, trading in the security would halt prior to the close of the Late Trading Session on the day immediately before the market effective date of the reverse stock split. The Exchange also believes it is appropriate to re-open the security with a Trading Halt Auction at 9:00 a.m. on the effective date of the reverse stock split instead of at 4:00 a.m. on away markets or 7:00 a.m. on the Exchange because doing so would give the Exchange and market participants an opportunity to identify any orders in a security that has undergone a reverse stock split that have not correctly adjusted to the security's new stock price. The proposed changes seek to achieve consistency with respect to the initiation and termination of a trading halt with respect to securities that have undergone a reverse stock split, while maintaining a fair and orderly market, protecting investors, and protecting the public interest.

Additionally, the Exchange believes that establishing a mandatory trading halt for securities that have undergone a reverse stock split and resuming trading thereafter promotes fair and orderly markets and the protection of investors because it allows the Exchange to protect the broader interests of the national market system and addresses potential concerns that system errors may affect immediate trading in those securities. The Exchange believes that given the increase in companies effecting reverse stock splits, the proposal would help the Exchange reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders.

The Exchange further believes that re-opening a security subject to a reverse stock split with a Trading Halt Auction at 9:00 a.m.—which is after the start of early trading on away markets and the Exchange but before the opening of the Exchange's Core Trading Session at 9:30 a.m.—would promote fair and orderly trading, protect investors, and promote the public interest by allowing market participants and the Exchange a better opportunity to notice errors or problems with orders for the security because it would be opening for trading at a unique time, and not at a time when thousands of other securities open for trading.

Based on the foregoing, the Exchange believes that the proposal is consistent with the Act because it would promote just and equitable principles of trade and would remove any impediments to a free and open market and a national market system by allowing sufficient time for investors to review their orders and the quotes for a security that has undergone a reverse stock split, and allow market participants to ensure that their systems have properly accounted for the reverse stock split. As discussed previously, the Exchange believes that the proposed amendments establishing the authority and process for reverse stock split trading halts and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of section 6(b)(8) of the Act.[18]

The Exchange believes that the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives. In addition, at least one other exchange (Nasdaq) has already adopted a substantially similar rule. The Exchange believes that harmonizing its rules with Nasdaq's in this area would minimize the chance that market participants might make erroneous trades in a security because they were unaware that it had undergone a reverse stock split.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers on the Exchange equally. In addition, information regarding the timing of reverse stock splits and the halting and resumption of trading in connection with the effecting of reverse splits would be disseminated using several freely-accessible sources to ensure the broad availability of this information.

In addition, the proposal includes provisions related to the declaration and timing of trading halts and the resumption of trading that are designed to prevent any advantage to those who can react more quickly than other market participants.

[18] 15 U.S.C. 78f(b)(8).

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 [19] and Rule 19b–4(f)(6) thereunder.[20] 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.[21]

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) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2024–22 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–2024–22. 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–2024–22 and should be submitted on or before April 23, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–06888 Filed 4–1–24; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–99862; File No. SR–NYSEARCA–2024–29]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.18–E

March 27, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 22, 2024, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 7.18–E (Halts) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with the increase in overall reverse stock splits in recent years, the Exchange proposes to amend

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Rule 7.18–E (Halts) to set forth specific requirements for halting and resuming trading in a security that is subject to a reverse stock split.

Background

The Commission recently approved a proposal filed by The Nasdaq Stock Exchange (''Nasdaq'') providing for a regulatory halt at the end of trading on the day immediately before the market effective date of a reverse stock split and a delayed opening of the security on the market effective date of the reverse stock split.[4] In its filing, Nasdaq noted that it had observed a recent increase in reverse stock split activity in the current market environment.

The Exchange has not itself experienced the increase in the number of reverse stock splits that Nasdaq described in its filings. Nevertheless, the Exchange proposes to adopt similar changes at the request of market participants who say that they would benefit from a consistent approach across exchanges with respect to regulatory halt rules around reverse stock splits. The Exchange believes that harmonizing its rules with Nasdaq's in this area would enhance investor protection and maintain fair and orderly markets by minimizing the chance that market participants might make erroneous trades in a security because they were unaware that it had undergone a reverse stock split.

Accordingly, the Exchange proposes to adopt amendments to its trading halt rules to require the Exchange to declare a regulatory halt in trading before the end of after-hours trading on the day immediately before the market effective date of a reverse stock split, and to open the security on the market effective date of a reverse stock split with a Trading Halt Auction[5] at 9:00 a.m. This proposed change is modeled on the recently-approved Nasdaq rule.

This change would help reduce the potential for market participants' misunderstanding of the impact on the value of the issuer' securities resulting from investors' lack of advance knowledge of the reverse stock split, as well as errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders.

Proposed Amendment to Rule 7.18–E

The Exchange currently processes reverse stock splits overnight, with the security available for trading on other markets and in the Exchange's Early Trading Session[6] at 4:00 a.m.[7] on a split-adjusted basis. Market participants have recently expressed concerns with allowing trading on an adjusted basis during those early trading sessions, noting that it is not optimal because system errors or problems with orders may go unnoticed for a period of time when a security that has undergone a reverse stock split opens for trading with the other thousands of securities. These errors have the potential to adversely affect investors, market participants, and the issuer. For example, problems in connection with the processing of a reverse stock split could result in a broker executing trades selling more shares than customers held in their accounts, resulting in a temporary short position.

As such, the Exchange believes it is appropriate to impose a regulatory halt, which would prohibit pre-market trading immediately after a reverse stock split, and to re-open trading in such securities using a Trading Halt Auction. These changes would allow the Exchange and market participants to better detect any errors or problems with orders for the security resulting from the reverse stock split before trading in the security begins and thereby avoid any material effect on the market.

The Exchange proposes to add new subparagraph (e) to Rule 7.18–E, which would provide that the Exchange would halt trading in a security for which the Exchange is the Primary Listing Market[8] before the end of the Late Trading Session[9] on the day immediately before the market effective date of the reverse stock split. Such a trading halt due to a reverse stock split would be mandatory pursuant to proposed Rule 7.18–E(e). In general, the Exchange expects to initiate the halt at 7:50 p.m., prior to the end of the Late Trading Session at 8:00 p.m. on the day immediately before the split is effective.[10]

Proposed Rule 7.18–E(e) would further provide that trading in the security would resume with a Trading Halt Auction at 9:00 a.m. on the day the reverse stock split is effective.[11] The Exchange believes that re-opening the security with a Trading Halt Auction at 9:00 a.m.—which is after the start of early trading on away markets and the Exchange but before the opening of the Exchange's Core Trading Session[12] at 9:30 a.m.—would allow market participants and the Exchange a better opportunity to notice errors or problems with orders for the security because it would be opening for trading at a unique time, and not at a time when thousands of other securities open for trading.[13] The Exchange believes that this halt and delayed opening[14] would give sufficient time for investors to review their orders and the quotes for the security and allow market participants to ensure that their systems

[4] *See* Securities Exchange Act Release No. 98878 (November 7, 2023) (SR–NASDAQ–2023–036) (approving halt provisions with respect to reverse stock splits).

[5] The term ''Trading Halt Auction'' is defined in Rule 7.35–E(e) as an auction ''to re-open trading in an Auction-Eligible Security following a halt or pause of trading in that security in either the Early Trading Session, Core Trading Session, or Late Trading Session, as applicable.''

[6] The term ''Early Trading Session'' is defined in Rule 7.34–E(a)(1) as the period of time beginning at 4:00 a.m. and concluding with the commencement of the Core Trading Session.

[7] All times referred to in this filing are Eastern Time.

[8] The term ''Primary Listing Market'' is defined in Section XI(a)(i)(H) of the CTA Plan as ''the national securities exchange on which an Eligible Security is listed. If an Eligible Security is listed on more than one national securities exchanges, Primary Listing Market means the exchange on which the security has been listed the longest.''

[9] The term ''Late Trading Session'' is defined in Rule 7.34–E(a)(3) as the period of time following the conclusion of the Core Trading Session and concluding at 8:00 p.m.

[10] Initiating the halt at approximately 7:50 p.m. would provide the Exchange with a limited buffer to ensure that trading in a security that is undergoing a reverse stock split would not continue after the close of the Late Trading Session. While the Exchange does not anticipate halting a security that undergoes a reverse stock split sooner than 7:50 p.m., the Exchange may halt trading earlier than 7:50 p.m. for other reasons as described elsewhere in Rule 7.18–E. The Exchange would provide notice of the halt through the SIP and on the Exchange's trading halt web page at *https://www.nyse.com/trade-halt.*

[11] The Exchange may change the resumption time if, for example, there was ''Extraordinary Market Activity,'' as defined in the CTA Plan, that could interfere with a fair and orderly resumption at the start of Core Trading Hours. The Exchange would provide notice of the re-opening of the security through the SIP and on the Exchange's trading halt web page at *https://www.nyse.com/trade-halt.*

[12] The term ''Core Trading Session'' is defined in Rule 7.34–E(a)(2) as ''begin[ning] for each security at 9:30 a.m. Eastern Time and end[ing] at the conclusion of Core Trading Hours or the Core Closing Auction, whichever comes later. The Core Open Auction will begin the Core Trading Session.''

[13] The Exchange's proposal to re-open trading in a security that has undergone a reverse stock split with a Trading Halt Auction at 9:00 a.m. is substantively similar to the Commission-approved Nasdaq rule to reopen such securities with a Nasdaq Halt Cross at 9:00 a.m., after the start of early-market trading but before the start of Nasdaq's Regular Market Session at 9:30 a.m. *See* Nasdaq Rule 4120(b)(4)(D).

[14] Trading in a security that has undergone a reverse stock split would have a delayed opening because following the reverse stock split, the security would not be available for early-session trading at 4:00 a.m. on the Exchange, but would instead re-open with a Trading Halt Auction at 9:00 a.m. Orders eligible for execution in the Early Trading Session (as defined in Rule 7.34–E(a)(1)) that are entered before the 9:00 a.m. Trading Halt Auction and not canceled would be eligible to execute in the Trading Halt Auction.

have properly adjusted for the reverse stock split.[15]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] 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.

The Exchange believes that the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system and protects investors and the public interest. The Exchange is proposing these changes at the request of market participants who say that they would benefit from a consistent approach across exchanges with respect to regulatory halt rules around reverse stock splits. As such, the Exchange believes that harmonizing its rules with Nasdaq's in this area would enhance investor protection and maintain fair and orderly markets by minimizing the chance that market participants might make erroneous trades in a security because they were unaware that it had undergone a reverse stock split.

The Exchange believes that its proposed rule change establishing a reverse stock split trading halt rule would protect investors by giving the Exchange non-discretionary authority to act in situations where it is necessary to maintain fair and orderly markets, such as when a security is subject to a reverse stock split and companies have not updated their systems to account for the new stock price. It would also ensure that the process for resuming trading following a reverse stock split halt is consistent with other types of halts initiated by the Exchange. Currently, none of the Exchange's rules provide authority to pre-emptively halt the trading in a security undergoing a significant corporate action that could lead to investor or market confusion.

The Exchange believes that the proposed amendments would provide greater transparency and clarity with respect to the manner in which trading would be halted due to a reverse stock split, and the process through which that halt would be implemented and terminated. Particularly, the Exchange would not have discretion in determining whether to declare a trading halt in a security following the declaration of a reverse stock split. Rather, following the reverse stock split of a security for which the Exchange is the Primary Listing Market, trading in the security would halt prior to the close of the Late Trading Session on the day immediately before the market effective date of the reverse stock split. The Exchange also believes it is appropriate to re-open the security with a Trading Halt Auction at 9:00 a.m. on the effective date of the reverse stock split instead of at 4:00 a.m. on the Exchange and away markets because doing so would give the Exchange and market participants an opportunity to identify any orders in a security that has undergone a reverse stock split that have not correctly adjusted to the security's new stock price. The proposed changes seek to achieve consistency with respect to the initiation and termination of a trading halt with respect to securities that have undergone a reverse stock split, while maintaining a fair and orderly market, protecting investors, and protecting the public interest.

Additionally, the Exchange believes that establishing a mandatory trading halt for securities that have undergone a reverse stock split and resuming trading thereafter promotes fair and orderly markets and the protection of investors because it allows the Exchange to protect the broader interests of the national market system and addresses potential concerns that system errors may affect immediate trading in those securities. The Exchange believes that given the increase in companies effecting reverse stock splits, the proposal would help the Exchange reduce the potential for errors resulting in a material effect on the market resulting from market participants' processing of the reverse stock split, including incorrect adjustment or entry of orders.

The Exchange further believes that re-opening a security subject to a reverse stock split with a Trading Halt Auction at 9:00 a.m.—which is after the start of early trading on away markets and the Exchange but before the opening of the Exchange's Core Trading Session at 9:30 a.m.—would promote fair and orderly trading, protect investors, and promote the public interest by allowing market participants and the Exchange a better opportunity to notice errors or problems with orders for the security because it would be opening for trading at a unique time, and not at a time when thousands of other securities open for trading.

Based on the foregoing, the Exchange believes that the proposal is consistent with the Act because it would promote just and equitable principles of trade and would remove any impediments to a free and open market and a national market system by allowing sufficient time for investors to review their orders and the quotes for a security that has undergone a reverse stock split, and allow market participants to ensure that their systems have properly accounted for the reverse stock split. As discussed previously, the Exchange believes that the proposed amendments establishing the authority and process for reverse stock split trading halts and the resumption of trading is consistent with the Act, which itself imposes obligations on exchanges with respect to issuers that are listed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of Section 6(b)(8) of the Act.[18]

The Exchange believes that the proposal will not impose a burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is designed to protect investors and facilitate a fair and orderly market, which are both important purposes of the Act. To the extent that there is any impact on intermarket competition, it is incidental to these objectives. In addition, at least one other exchange (Nasdaq) has already adopted a substantially similar rule. The Exchange believes that harmonizing its rules with Nasdaq's in this area would minimize the chance that market participants might make erroneous trades in a security because they were unaware that it had undergone a reverse stock split.

The Exchange does not believe that the proposed rule change imposes a burden on intra-market competition because the provisions apply to all market participants and issuers on the Exchange equally. In addition,

[15] After resuming trading with a Trading Halt Auction at 9:00 a.m., the security would be eligible to trade for the remainder of the Early Trading Session and would then participate in a Core Open Auction at the start of the Core Trading Session.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(8).

information regarding the timing of reverse stock splits and the halting and resumption of trading in connection with the effecting of reverse splits would be disseminated using several freely-accessible sources to ensure the broad availability of this information.

In addition, the proposal includes provisions related to the declaration and timing of trading halts and the resumption of trading that are designed to prevent any advantage to those who can react more quickly than other market participants.

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 [19] and Rule 19b–4(f)(6) thereunder.[20] 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.[21]

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) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2024–29 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–2024–29. 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–NYSEARCA–2024–29 and should be submitted on or before April 23, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–06887 Filed 4–1–24; 8:45 am]

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[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20160 and #20161; FLORIDA Disaster Number FL–20003]

Administrative Declaration of a Disaster for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Florida dated 03/27/2024.

Incident: Severe Storms, Straight-line Winds, and Tornadoes.

Incident Period: 01/08/2024 through 01/09/2024.

DATES: Issued on 03/27/2024.

Physical Loan Application Deadline Date: 05/28/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 12/27/2024.

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* 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: Bay, Jackson.

Contiguous Counties:

Florida: Calhoun, Gadsden, Gulf, Holmes, Liberty, Walton, Washington.

Alabama: Geneva, Houston.

Georgia: Seminole.

The Interest Rates are:

	Percent
For Physical Damage:	
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 20160C and for economic injury is 201610.

The States which received an EIDL Declaration are Alabama, Florida, Georgia.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2024–06919 Filed 4–1–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Delegation of Authority No. 514–2]

Delegation of Authority—Authorities of the Under Secretary for Management

By virtue of the authority vested in the Secretary of State by the laws of the United States, including section 1(a)(4) of the State Department Basic Authorities Act (22 U.S.C. 2651a(a)(4)), I hereby delegate to Assistant Secretary Alaina Teplitz, to the extent authorized by law, all authorities vested in or delegated to the Under Secretary for Management by any act, order, determination, delegation of authority, regulation, or executive order, now or hereafter issued.

The Secretary, Deputy Secretary, Deputy Secretary for Management and Resources, and the Under Secretary for Management may exercise any function or authority delegated herein. This delegation of authority does not modify any other delegation of authority currently in effect.

This delegation shall expire upon the entry upon duty of a confirmed Under Secretary for Political Affairs unless sooner revoked and shall be published in the **Federal Register**.

Dated: March 15, 2024.

Antony J. Blinken,

Secretary of State.

[FR Doc. 2024–06867 Filed 4–1–24; 8:45 am]

BILLING CODE 4710–10–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 398 (Sub No. 11X)]

San Joaquin Valley Railroad Co.—Discontinuance of Service Exemption—in Kern County, Cal.

San Joaquin Valley Railroad Co. (SJVR), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 4.3-mile rail line between milepost 304.2 and milepost 308.5 in Kern County, Cal. (the Line). The Line traverses U.S. Postal Service Zip Code 93250 and includes two stations.

SJVR has certified that: (1) no local traffic has moved over the Line since 2011; (2) no overhead traffic has moved over the Line since 2011; (3) no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [1] to subsidize continued rail service has been received, this exemption will be effective on May 2, 2024, unless stayed pending reconsideration.[2] Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [3] must be filed by April 12, 2024.[4] Petitions for reconsideration must be filed by April 22, 2024.

All pleadings, referring to Docket No. AB 398 (Sub-No. 11X), must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. Additionally, a copy of each pleading filed with Board must be sent to SJVR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 26, 2024.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2024–06866 Filed 4–1–24; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2024–1064]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Operation of Small Unmanned Aircraft Systems Over People

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. The collection involves operators and owners of small

[1] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] SJVR states that it intends to consummate the discontinuance of the Line on or after May 3, 2024.

[3] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[4] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

unmanned aircraft systems (UAS) issued an airworthiness certificate and mandates that these entities must retain records of all maintenance performed on their aircraft and records documenting the status of life-limited parts, compliance with airworthiness directives, and inspection status of the aircraft. These records are used to validate that aircraft are maintained in a manner that ensures the reliability associated with having an airworthiness certificate and that the operations-over-people privileges afforded to category 4 operations continue to be appropriate. The owner or operator may keep these records electronically or by paper.

DATES: Written comments should be submitted by June 3, 2024,

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field)

By mail: Chris Morris, AFS–830, 800 Independence Ave., SW, Washington, DC 20591

By email: chris.morris@faa.gov.

FOR FURTHER INFORMATION CONTACT: Jeff Bergson by email at: *jeffrey.bergson@faa.gov;* phone: (816) 329–4163

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

OMB Control Number: 2120–0775.

Title: Operation of Small Unmanned Aircraft Systems over People.

Form Numbers: N/A.

Type of Review: Renewal.

Background: Under the authority of 49 U.S.C. 44807, the FAA is requiring that owners and operators of small UAS issued an airworthiness certificate under 14 CFR part 21 retain records of all maintenance performed on their aircraft and records documenting the status of life-limited parts, compliance with airworthiness directives, and inspection status of the aircraft. The records must be kept for the time specified in § 107.140, and they must be available to the FAA and law enforcement personnel upon request. The owner may keep these records electronically or on paper.

Respondents: The FAA estimates that an average of two owners per year will be subject to this recordkeeping requirement. The FAA further estimates that each of those owners operates a fleet of 100 UAS.

Frequency: On occasion.

Estimated Average Burden per Response: The FAA estimates that creation and retention of these records would require 30 minutes per UAS.

Estimated Total Annual Burden: 100 hours per year, based on an estimate of 2 owners per year, each owning 100 UAS and spending 30 minutes per UAS.

Issued in Washington, DC, on March 28, 2024.

D.C. Morris,

Aviation Safety Analyst, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2024–06935 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Availability of the Finding of No Significant Impact for the Midvalley Highway Project in Utah and Final Federal Agency Actions

AGENCY: Federal Highway Administration (FHWA), Department of Transportation, Utah Department of Transportation (UDOT).

ACTION: Notice of availability and notice of limitations on claims for judicial review of actions by UDOT and other Federal agencies.

SUMMARY: The FHWA, on behalf of UDOT, is issuing this notice to announce actions taken by UDOT. The actions relate to the proposed Midvalley Highway S.R. 170 Project, in the Cities of Erda, Grantsville and Tooele, Tooele County, State of Utah. Those actions grant licenses, permits, and approvals for the project.

DATES: This decision became operative on February 21, 2024. By this notice, FHWA, on behalf of UDOT, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 30, 2024. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Naomi Kisen, Senior Environmental Program Manager, UDOT Environmental Services, P.O. Box 143600, Salt Lake City, UT 84114; (801) 965–4005; email: *nkisen@utah.gov,* Monday–Friday, 8 a.m. to 5 p.m. (Mountain Time Zone), except State and Federal holidays.

SUPPLEMENTARY INFORMATION: The environmental review, consultation, and other actions required by applicable Federal environmental laws for this action are being, or have been, carried out by UDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding (MOU) dated May 26, 2022, and executed by FHWA and UDOT. Actions taken by UDOT on FHWA's behalf pursuant to 23 U.S.C. 327 constitute Federal agency actions for purposes of Federal law. Notice is hereby given that UDOT has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and/or approvals for the Midvalley Highway SR–179 Project in the State of Utah.

The purpose for this project is to:

- Improve regional connectivity within the Tooele Valley.
- Reduce existing and future (2050) congestion on SR–36.
- Provide better access to planned development in the study area; and
- Improve public welfare and safety by providing a high-capacity alternative to SR–36, in the case of an emergency.

The selected alternative would construct: a new four-lane grade separated freeway from the end of existing Midvalley Highway to SR–112, a new four-lane arterial between SR–112 and SR–36, a new interchange at Midvalley Highway and SR–138, and a shared use path along the alignment of Midvalley Highway. The project is identified in UDOT's adopted 2023–2028 State Transportation Improvement Program as project number S–0179(2)0 with funding identified for right-of-way acquisition. The project is also included in UDOT's 2023–2050 Long Range Transportation Plan.

The actions by UDOT, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) for the project, approved on September 7, 2023, in the Finding of No Significant Impact (FONSI) for the project, approved on February 21, 2023, and in other documents in the project record. The EA and FONSI are available for review at the UDOT Central Complex, 4501 South 2700 West, Salt Lake City, Utah. In addition, the EA and FONSI documents can be viewed and downloaded from the project website at *https://udot.utah.gov/midvalley/#/.* This notice applies to the EA, the FONSI, and all other UDOT and Federal agency decisions and other actions with respect

to the project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to the following laws (including their implementing regulations):

1. *General:* National Environmental Policy Act [42 U.S.C. 4321–4370m–12]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; 23 U.S.C. 139.

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544], Fish and Wildlife Coordination Act [16 U.S.C. 661–667d]; Migratory Bird Treaty Act [16 U.S.C. 703–712]; Bald and Golden Eagle Protection Act [16 U.S.C. 668–668d].

5. *Historic and Cultural Resources:* National Historic Preservation Act of 1966, as amended [54 U.S.C. 300101–307108]; Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa–470mm]; Archeological and Historic Preservation Act [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. *Social and Economic:* Title VI of Civil Rights Act of 1964 [42 U.S.C. 2000d–2000d–7]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251–1389]; Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund Act [54 U.S.C. 200301–200310]; Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Appropriation Act of 1899, as amended [33 U.S.C. 401–418]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [42 U.S.C. 9671–9675]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992k].

9. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901–4918].

10. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species; E.O. 13985 Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; E.O. 13990 Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis; E.O. 14008 Tackling the Climate Crisis at Home and Abroad.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139 (*l*)(1).

Ivan Marrero,

Division Administrator, Federal Highway Administration, Salt Lake City, Utah.

[FR Doc. 2024–06886 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0045]

Draft General Conformity Determination for the California High-Speed Rail System Palmdale to Burbank Section

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice; request for comment.

SUMMARY: FRA is issuing this notice to advise the public that a draft General Conformity Determination for the Palmdale to Burbank Section of the California High-Speed Rail (HSR) System is available for public and agency review and comment.

DATES: Comments must be received on or before May 2, 2024.

ADDRESSES: Comments related to Docket No. FRA–2024–0045 may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number (FRA–2024–0045). All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information. Please see the *Privacy Act Statement* heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read the draft General Conformity Determination, background documents, or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Lana Lau, Supervisory Environmental Protection Specialist, Office of Environmental Program Management, RRD, telephone: (202) 923–5314, email: *Lana.Lau@dot.gov.*

SUPPLEMENTARY INFORMATION:

Privacy Act Statement: FRA will post comments it receives, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, inclusion of names is completely optional. Whether commenters identify themselves or not, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Background: The California High-Speed Rail Authority (CHSRA) is advancing the environmental review of the Palmdale to Burbank (Project) of the California HSR System pursuant to 23 U.S.C. 327, under which it has assumed FRA's environmental review responsibilities. However, under section 327, FRA remains responsible for making General Conformity Determinations under the Clean Air Act. This draft General Conformity Determination documents FRA's evaluation of the Project, consistent with the relevant sections of the Clean Air Act and its implementing regulations.

FRA conducted the analysis of the Project's potential emissions consistent with all regulatory criteria and procedures and after coordination with CHSRA. FRA's analysis and CHSRA's coordination with relevant entities supports a proposed finding that Project-generated, construction-phase emissions for Nitrogen Dioxide (NO_X) and Carbon Monoxide (CO) will be in excess of the General Conformity *de minimis* threshold in certain calendar years. However, CHSRA proposes to offset its construction-phase NO_X exceedances to achieve conformance, consistent with applicable regulatory

requirements in the Statewide Implementation Plan (SIP) for the South Coast Air Basin. In addition, the Project's emissions can be accommodated in the SIP, based on localized CO modeling showing that construction-phase CO emissions will not result in an exceedance of the NAAQS. Operation of the Project is expected to result in an overall reduction of regional emissions of all applicable air pollutants and would not cause a localized exceedance of the applicable regulatory requirements. FRA concludes that the Project, as designed, will conform to the SIP, based on a commitment from the CHSRA that construction-phase NO_X emissions will be offset consistent with the applicable federal regulations in the South Coast Air Basin, and based on localized CO modeling, which demonstrates that construction-phase CO emissions will not cause or contribute to a violation of the NAAQS.

Next Steps: The draft General Conformity Determination for the Project is being issued for public review and comment for 30 days at Docket No. FRA–2024–0045. Comments related to Docket No. FRA–2024–0045 may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments. Although CHSRA is assisting FRA by disseminating notice of the availability of the draft General Conformity Determination through its usual outreach methods, CHSRA is not accepting comments on behalf of FRA. FRA cannot ensure consideration of any comment that is not submitted via *https://www.regulations.gov.* FRA will consider all relevant comments it receives before issuing a Final General Conformity Determination.

Issued in Washington, DC.

Marlys Ann Osterhues,

Director, Office of Environmental Program Management.

[FR Doc. 2024–06960 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0005]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA will seek approval of the Information Collection Request (ICR) summarized below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

DATES: Interested persons are invited to submit comments on or before June 3, 2024.

ADDRESSES: Written comments and recommendations for the proposed ICR should be submitted on regulations.gov to the docket, Docket No. FRA–2024–0005. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130–NEW) in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice, made available to the public, and include them in its information collection submission to OMB for approval.

FURTHER INFORMATION CONTACT: Ms. Arlette Mussington, Information Collection Clearance Officer, at email: *arlette.mussington@dot.gov* or telephone: (571) 609–1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: *joanne.swafford@dot.gov* or telephone: (757) 897–9908.

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8–1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

Title: FRA Workforce Development (WFD) Study on Performance Management Systems and Organizational Culture and Diversity.

OMB Control Number: 2130–NEW.

Abstract: This project is being conducted in response to a Broad Agency Announcement (BAA) topic released in 2020 entitled ''Research in Response to Railroad Systems Issues Strategic Priorities.'' FRA has released BAAs aimed at workforce training and development, developing educational and vocational pipelines, and addressing issues around equity and inclusivity within the rail industry. Existing research on demographics, organizational practices, and policies, as well as industry culture need to be updated to account for the profound changes in employment practices and workforce dynamics in the last few years, including inflation and supply chain issues. This data collection effort will improve the understanding of the current state of the industry and establish a baseline against which to measure future impacts.

The team conducting this research will survey and interview a cross-section of stakeholders familiar with the current culture in rail, about barriers to entry they see and experience as impacting minority populations. Part of the data analysis will examine findings by employment position to determine if the views at the executive or managerial levels are similar or shared by individuals and staff in more entry-level positions. The research team will also review source documents and artifacts which show how the stakeholder's performance management system was designed and how it is intended to work. Data will be collected and compiled from interviews and focus groups about how well the performance management system functions in practice, whether the intended use differs from actual use, and whether observed differences in use benefit or

hinder efficacy in recruiting and retaining diverse talent.

The study focuses on performance management systems because there is evidence that organizational culture plays a significant role in shaping industry demographics. The findings from this research will provide a better understanding of how employees at various levels are affected by performance management systems and how these systems contribute to organizational culture. The project team will provide FRA with data and best practices that could be used to recommend workforce development initiatives, that may affect organizational culture, for rail organizations and other related industries. Therefore, the research will offer novel, actionable solutions for diversifying the rail workforce.

The main objectives in this study are to: (1) expand on research done to date and to gain a better understanding of the organizational culture and challenges in recruiting and retaining underrepresented individuals in the rail industry; (2) understand how employees at various levels are affected by performance management systems and organizational culture; and (3) examine and identify best practices for the use of performance management systems as a tool for equitable and diverse recruitment, development, retention, and promotion.

Primary users of this information will be those in the rail industry. The findings of this study will provide qualitative data on the current workforce culture in rail and how performance management systems may affect organizational culture. Industry stakeholders, FRA, and DOT may use this data to identify gaps, develop approaches, and create interventions/solutions to enhance workforce development initiatives for underrepresented groups.

FRA will publish the results of this study. A summary of the results may also be presented at technical meetings, such as the annual meeting of the Transportation Research Board, or at conferences/talks with professional associations such as the Women's Transportation Seminar and the American Public Transportation Association.

Type of Request: Approval of a new collection of information.

Affected Public: Rail stakeholders including those in labor positions, carrier management, research/academia, professional association staff, HR personnel, regulators, executive level staff, etc.

Form(s): FRA F 6180.278 and FRA F 6180.279.

Respondent Universe: Rail stakeholders including those in labor positions, carrier management, research/academia, professional association staff, human resources (HR) personnel, regulators, executive level staff, etc.

Frequency of Submission: On occasion.

Reporting Burden:

Description	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C = A * B)	Total cost equivalent in U.S. dollar (D = C* Wage Rates) [1]
Email notification for on-line survey. This notification includes confidentiality statement to potential participants (before the survey).	150 rail stakeholders	50 Participants	10 minutes	8.33 hours	$377.02
FRA F 6180–279—WFD on-line survey on Organizational Culture & Performance Management in Rail. *(New form).*	150 rail stakeholders	30 Participants	20 minutes	10.00 hours	$452.60
Email notification for Performance Management Systems interview/focus group. This notification includes confidentiality statement to potential focus group and interview respondents (before the interview).	30 rail stakeholders	10 Participants	10 minutes	1.67 hours	$75.58
FRA F 6180.278—WFD Interview Questions. Semi-structured [2] interview questions/focus groups on experiences with workforce culture & performance Management systems *(New form).*	30 rail stakeholders	5 Participants	1 hour	5.00 hours	$226.30
Totals [3]	150 rail holders	95 responses	N/A	25 hours	$1,132

Total Estimated Annual Responses: 95.

Total Estimated Annual Burden: 25 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $1,132.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Christopher S. Van Nostrand,

Acting Deputy Chief Counsel.

[FR Doc. 2024–06890 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–06–P

[1] The dollar equivalent cost is derived from the 2022 Department of Labor, Bureau of Labor Statistics (BLS), Occupational Employment Statistics, classified with NAICS 482100, Rail Transportation. See *http://www.bls.gov/oes/currrent/naics4_482100.htm#00-000.* The total burden wage rate (Straight time plus 31%) used in the table is $45.26 (34.55 +10.71 = $45.26).

[2] A semi-structured interview is a qualitative research method that utilizes some structured questions that will prompt discussion with the opportunity for unstructured exploration (additional questions or clarification of responses) of themes as they engage during the discussion.

[3] Totals may not add up due to rounding.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

MARAD Mariner Workforce Strategic Plan for Fiscal Years 2023–2027

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Fiscal Year (FY) 2021 National Defense Authorization

Act (NDAA), the Maritime Administration (MARAD) has developed and published a Mariner Workforce Strategic Plan for fiscal years 2023–2027 (the Plan) to recruit, train, and retain merchant mariners. The Plan is available for review and download on MARAD's website at *www.marad.dot.gov* by going to the Education page (*https://cms.marad.dot.gov/education/marad-mariner-workforce-strategic-plan-fy-2023-2927*).

FOR FURTHER INFORMATION CONTACT: Christopher Wahler, Director, Office of Maritime Labor and Training, via electronic mail at *christopher.wahler@dot.gov* or by calling 202–366–5469.

SUPPLEMENTARY INFORMATION: Section 3508 of the William M. (Mac) Thornberry National Defense Authorization Act amended 46 U.S.C. chapter 517 directing MARAD to develop a 5-year strategic plan to recruit, train, and retain merchant mariners. The Plan addresses the following key points:

1. Merchant mariner recruitment,
2. Merchant mariner training,
3. Merchant mariner retention, and
4. Demonstration and research priorities concerning the previous three elements.

MARAD sought input from stakeholders including Federal agency partners, the inland towing community, and maritime labor unions. MARAD also identified strengths, weaknesses, opportunities, and threats facing the mariner workforce and structured the strategy around the following six goals:

1. Strengthen mariner workforce development programs.
2. Support mariner education and training institutions.
3. Expand mariner workforce by actively recruiting from historically underrepresented groups, thereby broadening the recruitment pipeline.
4. Ensure the availability of a skilled and sufficient mariner workforce for national security.
5. Support maritime innovation.
6. Ensure superior policy execution and stewardship of resources.

The Plan describes a comprehensive set of strategies, as well as demonstration and research priorities. In developing the Plan, MARAD considered the availability of existing research and the need to ensure results having broad applicability for U.S. Merchant Marine workforce development.

MARAD, through an inter-agency agreement with the Volpe National Transportation Systems Center developed the Plan which included extensive engagement with the maritime industry and Federal partners. The full strategic plan is posted on the MARAD website, at *https://www.maritime.dot.gov/sites/marad.dot.gov/files/2024-02/MARAD%20Mariner%20Workforce%20Strategic%20Plan%20FY23-27.pdf*.

Pursuant to the FY21 NDAA, the Plan will be updated every five years until such time as the Maritime Administrator determines that there is an adequate number of United States mariners for sustained strategic sealift.

Pursuant to the statute, the Department of Transportation/MARAD transmitted copies of the Plan to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate.

(Authority: 46 U.S.C. 51707, 49 CFR 1.93(a))

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–06934 Filed 4–1–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before May 2, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 6, 2024.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21727–N	United States Postal Service.	175.10(a)(18)(ii)	To authorize the transportation in commerce of not more than ten spare lithium batteries with watt-hour ratings between 100Wh and 160 Wh in carry-on luggage via passenger-carrying aircraft. (mode 5).
21728–N	RSO, Inc	173.431(a)	To authorize the transportation in commerce of one Type A package containing a sealed source of 45 Ci of Cs–137 from Laurel, MD to Oak Ridge, TN and from Oak Ridge, TN to Andrews, TX for the purpose of disposal. (mode 1).

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21729–N	SodaStream USA, Inc.	173.306(a)(1)	To authorize the transportation in commerce of carbon dioxide, compressed in cylinders with a capacity exceeding 4 fluid ounces as limited quantities. (modes 1, 2, 3).
21731–N	Inversion Space Company.	173.185(b), 173.62(c), 177.848(b)	To authorize the transportation in commerce of lithium batteries and other hazardous materials incorporated into spacecraft. (mode 1).
21732–N	Post Warehouse Corp.	173.224(b)	To authorize the one-time transportation in commerce of N,N′-dinitrosopentamethylenetetramine (self-reactive material, Type C), in concentrations that exceed those authorized in 49 CFR 173.224(b) Self-Reactive Materials Table, for the purpose of disposal. (mode 1).
21733–N	Cirkul, Inc	171.2(k),172.202(a)(5)(iii)(B)	To authorize the transportation in commerce of certain DOT 3AL cylinders that contain carbon dioxide, with alternative hazard communication. (modes 1, 2, 3).

[FR Doc. 2024–06882 Filed 4–1–24; 8:45 am]
BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before April 17, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 6, 2024.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
16118–M	Toyota Motor Sales USA Inc ..	173.301(a)(1)	To modify the special permit to align with the provisions in the UN Model Regulations, Special Provision 392. (modes 1, 2, 3, 4).
21547–M	Mazda Motor of America, Inc	172.101(j)	To modify the special permit to authorize an additional lithium battery. (mode 4).

[FR Doc. 2024–06883 Filed 4–1–24; 8:45 am]
BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before May 2, 2024.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 6, 2024.

Donald P. Burger,

Chief, General Approvals and Permits Branch.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA—Granted			
13307–M	UPL NA Inc	172.504	To modify the special permit to add a hazardous material, to authorize additional packaging, and to waive 49 CFR 172.500 and 172.506.
14201–M	National Air Cargo Group, Inc	172.204(c)(3), 172.101(j)(1), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To modify the special permit to authorize more than 2,000 pounds NEW explosives to be transported aboard the aircraft and to authorize UN1005, UN3543, and UN3549 to be transported.
14282–M	Dyno Nobel Inc	172.301(c), 177.835(g)	To modify the special permit to authorize additional hazardous materials.
21403–M	Northrop Grumman Systems Corporation.	173.185(a)(1), 173.185(a)(2)	To modify the special permit to remove paragraphs 7.b.(2) and (4).
21503–M	Samsung Austin Semiconductor, LLC.	171.23(a), 173.304(a)(1), 173.304(a)(2).	To modify the special permit to remove the safety control in paragraph 7.a. of the special permit.
21601–N	Air Liquide Electronics U.S. LP	173.3(e)(1)	To authorize the transportation in commerce of specification DOT 3A480 cylinders with valve assemblies that have been repaired using an alternate method.
21609–N	Polaris Industries Inc	172.101(j)	To authorize the transportation in commerce of lithium batteries exceeding 35 kg by cargo-only aircraft.
21624–N	Porsche Logistik GmbH	172.101(j)	To authorize the transportation in commerce of lithium ion batteries each with a mass exceeding 35 kg net weight per package aboard cargo-only aircraft.
21633–N	Exxon Mobil Corporation	180.352(b)(1)	To authorize the transportation in commerce of Division 4.3 materials in UN 31A steel intermediate bulk containers that have been requalified using an alternative leakproofness test using nitrogen rather than oxygen.
21634–N	Astra Space Operations, Inc	173.301(f)(1), 173.302a(a)(1), 178.35(e).	To authorize the transportation in commerce of non-DOT specification cylinders, incorporated into a propellant management system within a satellite. The cylinders are based on the ISO 11119–2 Standard and are not equipped with pressure relief devices.
21638–N	Bae Systems Controls Inc	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg by cargo-only aircraft. Batteries are for use by aerospace vehicles.
21642–N	Air Liquide Electronics U.S. LP	173.23(a)	To authorize the one-time shipment of non-dot cylinders of Xenon (UN2036) to the USA for discharge and then destruction.
21659–N	Siller Helicopters, Inc	172.400, 172.101, 172.200, 172.204(c)(3), 172.204(c)(3), 172.300, 173.27(b)(2), 175.30(a)(1).	To authorize the transportation in commerce of certain hazardous materials by 14 CFR Part 133 cargo-only aircraft (rotorcraft external load operations) transporting hazardous materials attached to or suspended from the aircraft, in remote areas of the US only, without being subject to certain hazard communication requirements, quantity limitations and certain loading and stowage requirements.
21667–N	Hanwha Cimarron LLC	173.302(a)	To authorize the manufacture, mark, sale, and use of non-DOT specification fiber reinforced composite cylinders with non-load sharing plastic liners in compliance with UN/ISO11515: 2013, Type 4.
21673–N	Asset Recycling and Recovery LLC.	173.185(f)(1), 173.185(f)(2), 173.185(f)(3).	To authorize the one-way transportation in commerce of previously burnt, de-energized lithium cells and batteries in roll-off containers for the purposes of disposal.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21693–N	KULR Technology Corporation	172.704, 173.185(f)(1), 173.185(f)(3)(i).	To authorize the manufacture, mark, sale and use of specially designed thermal runaway shield (TRS) packagings for the transportation in commerce of damaged, defective, or recalled lithium-ion cells and batteries and lithium metal cells and batteries and those contained in and packed with equipment and end of life lithium-ion cells and batteries and lithium metal cells and batteries and those contained in and packed with equipment shipped for recycling, reuse, refurbishment, repurposing or evaluation.
21704–N	KULR Technology Corporation	172.700(a), 172.200, 173.185(b).	To authorize the manufacture, mark, sale, and use of specially designed thermal runaway shield (TRS) packagings for the transportation in commerce of end-of-life lithium-ion cells and batteries and lithium metal cells and batteries and those contained in and packed with equipment shipped for recycling, reuse, refurbishment, repurposing or evaluation.
21709–N	Kavok Eir, Tov	172.101(j)(1), 173.27(b)(2), 175.30(a)(1).	To authorize the transportation in commerce of certain Division 1.1 explosives aboard cargo-only aircraft.
21720–N	Environmental Works, Inc	178.274	To authorize the transportation in commerce of UN1809, Phosphorus Trichloride in a package that has sustained damage resulting from an accident.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA—Denied			
21586–N	OEC Freight (NY) Inc	173.241	To authorize the transportation in commerce of a hazardous substance (ethylene glycol) in alternative packaging.
21635–N	Point One USA, LLC	173.4b(a)(10)(ii)	To authorize the transportation in commerce of certain hazardous materials in the cabin of a passenger-carrying aircraft.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
SPECIAL PERMITS DATA—Withdrawn			
21463–M	Mission Systems Orchard Park Inc.	173.302a(a)(1)	To modify the special permit authorize a larger volume cylinder.
21605–N	The United States Department of Air Force.	172.101	To authorize the transportation of batteries containing acid or alkali, battery acid fluid , non-spillable wet batteries, and lithium ion batteries (including those packed with or in equipment) on the same vehicle, without being subject to certain requirements of the Hazardous Materials Regulations.
21681–N	Applied Energy Systems, Inc ..	172.101(j), 173.187, 173.212, 173.240, 173.242, 176.83(a)(2).	To authorize the transportation in commerce of dry metal catalyst in non-DOT specific bulk packaging.
21710–N	Energy Security Agency, Inc ...	173.185(f)	To authorize the transportation in commerce of damaged and undamaged lithium ion batteries that were involved in a thermal runaway incident near Alaska on board the Genius Star XI.

[FR Doc. 2024–06884 Filed 4–1–24; 8:45 am]
BILLING CODE 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 name of a vessel identified as blocked property that has been removed from OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List). Property and interests in property relating to this vessel are no longer blocked, and U.S. persons are no longer generally prohibited from engaging in transactions relating to this vessel.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: 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 October 25, 2018, OFAC identified the following vessel as property in which a blocked person has an interest pursuant to Executive Order 13551 of August 30, 2010, ''Blocking Property of Certain Persons With Respect to North Korea.'' On March 27, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following vessel are no longer blocked, and therefore the vessel has been removed from the SDN List.

Vessel

JW JEWEL Singapore flag; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Vessel Registration Identification IMO 9402964 (vessel) [DPRK] (Linked To: WT MARINE PTE LTD)

(Authority: E.O. 13551, 75 FR 53837)

Dated: March 27, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–06889 Filed 4–1–24; 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 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: 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 (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On March 27, 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 authority listed below.

BILLING CODE 4810–AL–P

Individuals

1. RI, Tong Hyok (a.k.a. RI, Tong-Hyo'k), Shenyang, China; DOB 27 Nov 1975; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214 (individual) [NPWMD] (Linked To: TANCHON COMMERCIAL BANK).

   Designated pursuant to section 1(a)(iv) of Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters" (E.O. 13382) for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, TANCHON COMMERCIAL BANK, a person whose property and interests in property are blocked pursuant to E.O. 13382.

2. YU, Pu Ung (Korean: 유부웅) (a.k.a. YU, Bu Ung; a.k.a. "Mr. O"), 67 Kap 2-9-1, Sobuk 1 Tonglo, Cho'lso' District, Shenyang, China; DOB 16 Sep 1966; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport PS927320340 issued 02 Sep 2017 expires 02 Sep 2022; (individual) [NPWMD] (Linked To: TANCHON COMMERCIAL BANK).

   Designated pursuant to section 1(a)(iv) of E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, TANCHON COMMERCIAL BANK, a person whose property and interests in property are blocked pursuant to E.O. 13382.

3. O, In Chun (Korean: 오인준) (a.k.a. O, In Jun; a.k.a. O, ln-chun), Vladivostok, Russia; DOB 03 Jul 1969; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport PS745220146 (Korea, North) (individual) [DPRK] (Linked To: KOREA DAESONG BANK).

   Designated pursuant to section 1(a)(ii)(F) of Executive Order 13551 of August 30, 2010, "Blocking Property of Certain Persons With Respect to North Korea" (E.O. 13551) for

being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, KOREA DAESONG BANK, a person whose property and interests in property are blocked pursuant to E.O. 13551.

4. JON, Yun Gun (Korean: 전연근) (a.k.a. CHO'N, Yo'n Ku'n), Laos; DOB 22 Apr 1973; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 927233154 (Korea, North) (individual) [DPRK2] (Linked To: PIONEER BENCONT STAR REAL ESTATE).

   Designated pursuant to section 1(a)(iv) of Executive Order 13687 of January 2, 2015 "Imposing Additional Sanctions With Respect To North Korea" (E.O. 13687) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, PIONEER BENCONT STAR REAL ESTATE, a person whose property and interests in property are blocked pursuant to E.O. 13687.

5. HAN, Chol Man (Korean: 한절만) (a.k.a. HAN, Ch'o'l-man), Shenyang, China; DOB 06 May 1978; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; (individual) [DPRK3] (Linked To: KUMGANG BANK).

   Designated pursuant to section 2(a)(viii) of Executive Order 13722 of March 15, 2016, "Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea," (E.O. 13722) for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, KUMGANG BANK, a person whose property and interests in property are blocked pursuant to E.O. 13722.

6. JONG, Song Ho (a.k.a. CHO'NG, So'ng-ho), Vladivostok, Russia; DOB 15 Nov 1972; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 109110001 (Korea, North) expires 05 Jan 2024 (individual) [DPRK4] (Linked To: JINMYONG JOINT BANK).

   Designated pursuant to section 1(a)(vi) of Executive Order 13810 of September 20, 2017 "Imposing Additional Sanctions With Respect to North Korea" (E.O. 13810) for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, JINMYONG JOINT BANK, a person whose property and interests in property are blocked pursuant to E.O. 13810.

Entities

1. LIMITED LIABILITY COMPANY ALIS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ "АЛИС") (a.k.a. "ALIAS LLC"; a.k.a. "ALIS LLC" (Cyrillic: "ООО АЛИС")), Office 222, Building 23, Kirova Street,

Vladivostok, Primorsky Krai 690068, Russia; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Organization Established Date 30 Sep 2016; Tax ID No. 2543103179 (Russia); Registration Number 1162536087230 (Russia) [DPRK2] (Linked To: CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY).

Designated pursuant to section 1(a)(v) of E.O.13687 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13687.

2. PIONEER BENCONT STAR REAL ESTATE, Dubai, United Arab Emirates; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Organization Type: Other information technology and computer service activities [DPRK2] (Linked To: CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY).

Designated pursuant to section 1(a)(v) of E.O. 13687 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13687.

Authorities: E.O. 13382, 70 FR 38567, 3 CFR, 2005 Comp., p. 170; E.O. 13551, 75 FR 53837, 3 CFR, 2010 Comp., p.242; E.O. 13687, 80 FR 819, 3 CFR, 2015 Comp., p. 259; E.O. 13722, 81 FR 14943, 3 CFR, 2016 Comp., p. 446; E.O. 13810, 82 FR 44705, 3 CFR, 2017 Comp., p. 379

Dated: March 27, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–06891 Filed 4–1–24; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2003–84

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Optional Election To Make Monthly 706(a) Computations.

DATES: Written comments should be received on or before June 3, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*. Include ''OMB Number 1545–1768—Optional Election To Make Monthly 706(a) Computations'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Optional Election To Make Monthly 706(a) Computations.

OMB Number: 1545–1768.

Revenue Procedure Number: 2003–84.

Abstract: This procedure allows certain partnerships that invest in tax-exempt obligations to make an election that enables the partners to take into account monthly the inclusions required under sections 702 and 707(c) of the Code and provides rules for partnership income tax reporting under section 6031 for such partnerships. Rev. Proc. 2002–68 modified and superseded.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 30 mins.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d)ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 25, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–06915 Filed 4–1–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning U.S. information return-trust accumulation of charitable amounts.

DATES: Written comments should be received on or before June 3, 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.* Please include, ''OMB Number: 1545–0094, Form 1041–A (U.S. Information Return-Trust Accumulation of Charitable Amounts), 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 LaNita Van Dyke, at (202) 317–3009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Information Return-Trust Accumulation of Charitable Amounts.

OMB Number: 1545–0094.

Form Number: 1041–A.

Abstract: Form 1041–A is used to report the information required in Internal Revenue Code section 6034 concerning accumulation and distribution of charitable amounts. Trusts claiming a contributions deduction under section 642(c) or split-interest trusts described in section 4947(a)(2) use Form 1041–A to report information required by section 6034.

Current Actions: There are changes (reduction in filers) in the paperwork burden previously approved by OMB. The Tax Cuts and Jobs Act of 2017 (Pub. L. 115–97) amended section 641(c)(2). As a result, Electing Small Business Trusts (ESBTs)are no longer subject to the charitable information reporting requirements under section 6034 and do not file Form 1041–A. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, and individuals.

Estimated Number of Respondents: 6,700.

Estimated Time per Respondent: 36 hrs, 40 minutes.

Estimated Total Annual Burden Hours: 245,622.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 27, 2024.

Molly J. Stasko,

Senior Tax Analyst.

[FR Doc. 2024–06906 Filed 4–1–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Community Volunteer Income Tax Assistance (VITA) Matching Grant Program—Availability of Application for Federal Financial Assistance

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document provides notice of the availability of the application package for the 2025 Community Volunteer Income Tax Assistance (VITA) Matching Grant Program.

DATES: Application instructions are available electronically from the IRS on May 1, 2024, by visiting: *IRS.gov* (key word search—''VITA Grant''). Application packages are available on May 1, 2024, by visiting *Grants.gov* and searching with the Catalog of Federal Domestic Assistance (CFDA) number 21.009. The deadline for applying to the IRS through *Grants.gov* for the Community VITA Matching Grant Program is May 31, 2024. All applications must be submitted through *Grants.gov*.

ADDRESSES: Internal Revenue Service, Grant Program Office, 401 West Peachtree St. NW, Stop 420–D, Atlanta, GA 30308 or at *grant.program.office@irs.gov.*

SUPPLEMENTARY INFORMATION: Authority for the Community Volunteer Income Tax Assistance (VITA) Matching Grant Program is contained in the Taxpayer First Act 2019, Public Law 116–25.

Daniel F. Maier,

Chief, Grant Program Office, IRS, Stakeholder Partnerships, Education & Communication.

[FR Doc. 2024–06856 Filed 4–1–24; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 89 Tuesday,
No. 64 April 2, 2024

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 431, 435, 436, et al.
Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431, 435, 436, 447, 457, and 600

[CMS–2421–F2]

RIN 0938–AU00

Medicaid Program; Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes

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

ACTION: Final rule.

SUMMARY: This is the second part of a two-part final rule that simplifies the eligibility and enrollment processes for Medicaid, the Children's Health Insurance Program (CHIP), and the Basic Health Program (BHP). This rule aligns enrollment and renewal requirements for most individuals in Medicaid; establishes beneficiary protections related to returned mail; creates timeliness requirements for redeterminations of eligibility; makes transitions between programs easier; eliminates access barriers for children enrolled in CHIP by prohibiting premium lock-out periods, benefit limitations, and waiting periods; and modernizes recordkeeping requirements to ensure proper documentation of eligibility determinations.

DATES: These regulations are effective on June 3, 2024.

FOR FURTHER INFORMATION CONTACT: Stephanie Bell, (410) 786–0617, *Stephanie.Bell@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Since 1965, Medicaid has been a cornerstone of America's health care system. The program provides free or low-cost health coverage to low-income individuals and families and helps meet the diverse health care needs of children, pregnant individuals, parents, older adults, and people with disabilities. For over 25 years, the Children's Health Insurance Program (CHIP) has stood on the shoulders of Medicaid with the goal of ensuring that all children have health insurance. Together these programs play a major role in making health care available and affordable to millions of Americans.

Access to health coverage expanded significantly in 2010 with enactment of the Patient Protection and Affordable Care Act (Pub. L. 111–148, enacted on March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted on March 30, 2010), together referred to as the Affordable Care Act (ACA). The ACA expanded Medicaid eligibility to low-income adults under age 65 without regard to parenting or disability status, simplified Medicaid and CHIP enrollment processes, and established health insurance Marketplaces where individuals without access to Medicaid, CHIP, or other comprehensive coverage could purchase coverage in a Qualified Health Plan (QHP). Many individuals with household income above the Medicaid and CHIP income standards became eligible for premium tax credits and/or cost-sharing reductions to help cover the cost of the coverage. In addition, the ACA provided States with the option of establishing a Basic Health Program (BHP), which can provide affordable health coverage to individuals whose household income is greater than 133 percent but does not exceed 200 percent of the Federal Poverty Level (FPL) (that is, lower income individuals who would otherwise be eligible to purchase coverage through the Marketplaces with financial subsidies). BHPs allow States to provide more affordable coverage for these individuals and to improve the continuity of care for those whose income fluctuates above and below the Medicaid and CHIP levels. To date, two States, New York and Minnesota, have established BHPs.

In addition to coverage expansion, the ACA also required the establishment of a seamless system of coverage for all insurance affordability programs (that is, Medicaid, CHIP, BHP, and the insurance affordability programs available through the Marketplaces). In accordance with sections 1943 and 2107(e)(1)(T) of the Social Security Act (the Act) and sections 1413 and 2201 of the ACA, individuals must be able to apply for, and enroll in, the program for which they qualify using a single application submitted to any program. We issued implementing regulations on March 23, 2012, titled ''Medicaid program; Eligibility Changes Under the Affordable Care Act of 2010'' final rule (77 FR 17144) (referred to hereafter as the ''2012 eligibility final rule''), and July 15, 2013, titled ''Medicaid and Children's Health Insurance Programs: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment'' final rule (78 FR 42160) (referred to hereafter as the ''2013 eligibility final rule''). These regulations focused on establishing a single streamlined application, aligning financial methodologies and procedures across insurance affordability programs, and maximizing electronic verification in order to create a streamlined, coordinated, and efficient eligibility and enrollment process for eligibility determinations based on modified adjusted gross income (MAGI).

Significant progress has been made in simplifying eligibility, enrollment, and renewal processes for applicants and enrollees, as well as reducing administrative burden on State agencies administering Medicaid, CHIP, and BHP, since the issuance of these regulations. The dynamic online applications developed by States and the Federally Facilitated Marketplace, which ask only those questions needed to determine eligibility, have reduced burden on applicants. Of the 48 States that reported application processing time data for the April 2023–June 2023 period, over half (57 percent) of all MAGI-based eligibility determinations at application were processed in under 24 hours.[1] By comparison, for the February 2018–April 2018 period, of the 42 States reporting application processing time data, only 31 percent of all MAGI-based eligibility determinations at application were processed in under 24 hours. Greater reliance on electronic verifications has reduced the need for individuals to find and submit, and for eligibility workers to review, copies of paper documentation, decreasing burden on both States and individuals and increasing[2] program integrity. Renewals completed using electronic information available to States have increased retention of eligible individuals, while also decreasing the administrative burden on both States and enrollees.

The critical role of Medicaid and CHIP in providing timely health care access was highlighted as the coronavirus disease 2019 (''COVID–19'') spread across our country beginning in early 2020. Medicaid and CHIP ensured people who may have lost their jobs or been exposed to COVID–19, or both, had access to coverage, playing a critical role in the national response. States were

[1] MAGI Application Processing Time Snapshot Report: April 2023–June 2023; accessed on 11/17/2023 at *https://www.medicaid.gov/sites/default/files/2023-10/magi-app-process-time-snapshot-rpt-apr-jun-2023.pdf.*

[2] MAGI Application Processing Time Snapshot Report: April 2023–June 2023; accessed on 1/18/2024 at *https://www.medicaid.gov/sites/default/files/2020-04/magi-application-time-report.pdf.*

eligible for a temporary increase in the Federal Medical Assistance Percentage (FMAP) throughout the COVID–19 public health emergency (PHE), if they met certain conditions specified in section 6008 of the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116–127, March 18, 2020), amended by section 5131 of Division FF of the Consolidated Appropriations Act, 2023 (CAA, 2023) (Pub. L. 117–328, December 29, 2022). One such condition was the continuous enrollment condition described at section 6008(b)(3) of the FFCRA. This condition required States to maintain enrollment, through March 31, 2023, for all Medicaid beneficiaries who enrolled on or after March 18, 2020, with limited exceptions.

Under the CAA, 2023, the FFCRA's temporary FMAP increase was extended through December 31, 2023, at a gradually reducing rate, for States that continued to meet the conditions specified in subsections 6008(b)(1), (2), and (4) of the FFCRA, along with new conditions at subsection 6008(f) of the FFCRA.[3] Among the new conditions for enhanced FMAP were requirements to (a) complete eligibility redeterminations in accordance with all applicable Federal requirements (or alternative processes and procedures approved by CMS), (b) update beneficiary contact information, and (c) make a good faith effort to contact beneficiaries whose mail was returned to the State. Since early 2023, States have been engaged in an effort to unwind their continuous enrollment policies and return to normal eligibility and enrollment operations (this process has commonly been referred to as ''unwinding''). CMS worked actively with States during this period to review their redetermination processes, approve alternatives when needed, and ensure that the enrollment protections established by the ACA were available to all applicants and beneficiaries during the unwinding period. This final rule builds upon these protections to promote enrollment and reduce churn.

The Biden-Harris Administration is committed to protecting and strengthening Medicaid and CHIP and has demonstrated this commitment through multiple executive actions. For example, on January 20, 2021, President Biden issued Executive Order 13985 on advancing racial equity and support for underserved communities.[4] It charged Federal agencies with identifying potential barriers that underserved communities may face to enrollment in programs like Medicaid and CHIP. This was followed on January 28, 2021, by Executive Order 14009 with a specific call to strengthen Medicaid and the ACA and remove barriers to obtaining coverage for the millions of individuals who are potentially eligible for coverage but remain uninsured.[5] In April 2022, President Biden issued another Executive order, building on progress and reflecting new Medicaid and CHIP flexibilities established by the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117–2). Executive Order 14070, ''Continuing to Strengthen Americans' Access to Affordable, Quality Health Coverage,'' charges Federal agencies with identifying ways to help more Americans enroll in quality health coverage.[6] It calls upon Federal agencies to examine policies and practices that make it easier for individuals to enroll in and retain coverage. Building on this charge, we reviewed the improvements made to implement the ACA, examined States' successes and challenges in enrolling eligible individuals, considered the changes brought about by the COVID–19 pandemic, and looked for gaps in our regulatory framework that continue to impede access to coverage.

We have learned through our experiences working with States and other interested parties that certain policies continue to result in unnecessary administrative burden and create barriers to enrollment and retention of coverage for eligible individuals. For example:

- Individuals whose eligibility is not based on MAGI (non-MAGI individuals)—such as, those whose eligibility is based on being age 65 or older, having blindness, or having a disability—generally were not included in the enrollment simplifications established under the ACA or our implementing regulations (the 2012 and 2013 eligibility final rules). This left such individuals at greater risk of being denied or losing coverage due to procedural reasons, including, for example, failure to return paperwork,[7] than their MAGI-based counterparts, even though we believe many are likely to continue to meet the substantive Medicaid eligibility criteria due to low likelihood of changes in their income or other circumstances.[8]
- Current regulations do not consistently provide clear timeframes for applicants and enrollees to return information needed by the State to make a determination of eligibility or for States to process and act upon information received. This may lead to unnecessary delays in processing applications and renewals and some individuals being denied increased assistance for which they have become eligible.
- Recordkeeping regulations, which are critical to ensuring appropriate and effective oversight to identify errors in State policies and operations, were last updated in 1986 and are both outdated and lacking in needed specificity. We believe these outdated requirements have contributed to inconsistent documentation policies across States, which may have furthered the incidence of improper Medicaid payments.
- Barriers to coverage that are not permitted under any other insurance affordability program—including lock-outs for individuals terminated due to non-payment of premiums, required periods of uninsurance prior to enrollment, and annual or lifetime caps on benefits—remain a State option in separate CHIPs.

Through the proposed rule that appeared in the **Federal Register** on September 7, 2022, entitled ''Streamlining the Medicaid, Children's Health Insurance Program, and Basic Health Program Application, Eligibility Determination, Enrollment, and Renewal Processes'' (87 FR 54760) (referred to hereafter as the ''September 2022 proposed rule''), we proposed policies designed to address these and other gaps, thereby streamlining Medicaid and CHIP eligibility and enrollment processes, reducing

[3] See the January 2023 State Health Official (SHO) #23–002, ''RE: Medicaid Continuous Enrollment Condition Changes, Conditions for Receiving the FFCRA Temporary FMAP Increase, Reporting Requirements, and Enforcement Provisions in the Consolidated Appropriations Act, 2023, for additional information on the ''unwinding period.'' Available online at *https://www.medicaid.gov/sites/default/files/2023-08/sho23002.pdf.*

[4] E.O. 13985, 86 FR 7009. Accessed online on July 19, 2022, at *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.*

[5] E.O. 14009, 86 FR 7793. Accessed online on July 19, 2022, at *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/executive-order-on-strengthening-medicaid-and-the-affordable-care-act/.*

[6] E.O. 14070, 87 FR 20689. Accessed online on July 19, 2022, at *https://www.whitehouse.gov/briefing-room/presidential-actions/2022/04/05/executive-order-on-continuing-to-strengthen-americans-access-to-affordable-quality-health-coverage/.*

[7] Procedural reasons include instances where a beneficiary fails to provide the information necessary to complete a Medicaid or CHIP renewal. This many include a renewal form with information about the individual's continued eligibility or documentation to verify continued eligibility.

[8] Assistant Secretary for Planning and Evaluation (ASPE) (2019). Loss of Medicare-Medicaid dual eligible status: Frequency, contributing factors and implications. Accessed on August 4, 2023, at *https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//189201/DualLoss.pdf.*

administrative burden on States and enrollees, and increasing enrollment and retention of eligible individuals. We also sought to improve the integrity of Medicaid and CHIP. Through the Payment Error Rate Measurement (PERM) program, the Medicaid Eligibility Quality Control (MEQC) program, and other CMS eligibility reviews, we have regular opportunities to work with States in reviewing their eligibility and enrollment processes. As a result of these reviews and other program integrity efforts, States are continually making improvements to their eligibility and enrollment systems both to enhance functionality and to correct any newly identified issues. We believe the changes finalized in this rule will further these efforts, and we will continue to work closely with States throughout implementation.

Current regulations at 42 CFR 433.112 establish conditions that State eligibility and enrollment systems must meet to qualify for enhanced Federal matching funds. Among these conditions, § 433.112(b)(14) requires that each State system support accurate and timely processing and adjudications of eligibility determinations, and effective communications with providers, beneficiaries, and the public. As States submit proposed changes to their eligibility and enrollment systems and implement new and/or enhanced functionality, we will continue to provide them with technical assistance on the policy requirements, conduct ongoing reviews of both the State policy and State systems, and ensure that all proposed changes support more accurate and timely processing of eligibility determinations.

We will also continue to explore other opportunities for reducing the incidence of beneficiary eligibility-related improper payments, including leveraging the enhanced funding available for design, implementation, and operation of State eligibility and enrollment systems, as well as mitigation and corrective action plans that address specific State challenges. Our goal is to ensure that eligible individuals can enroll and stay enrolled without unnecessary burden and that ineligible individuals are redirected to the appropriate coverage programs as quickly as possible.

On September 21, 2023, the ''Streamlining Medicaid; Medicare Savings Program Eligibility Determination and Enrollment'' final rule (88 FR 65230) (referred to hereafter as the ''2023 Streamlining MSP Enrollment final rule'') appeared in the **Federal Register**, which finalized provisions of our September 2022 proposed rule that were specific to individuals dually eligible for both Medicaid and Medicare. This rule addresses the remaining provisions of the September 2022 proposed rule. It is focused on aligning enrollment and renewal requirements for most individuals in Medicaid; improving access for medically needy individuals; establishing expectations for timely renewals and redeterminations of eligibility for individuals experiencing a change in circumstances; streamlining transitions between Medicaid and CHIP; eliminating access barriers for children enrolled in CHIP; removing unnecessary administrative barriers; and modernizing recordkeeping requirements to ensure proper documentation of eligibility determinations.

If any provision of this final rule is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, it shall be severable from this final rule and not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other, dissimilar circumstances.

II. Summary of the Proposed Provisions and Analysis of and Responses to Public Comments

We received a total of 7,055 timely comments from State Medicaid and CHIP agencies, advocacy groups, health care providers and associations, health insurers and plans, and the general public.

Comment: We received many comments supporting the September 2022 proposed rule. Commenters supported the changes proposed to reduce barriers to coverage, make the eligibility and enrollment process easier and faster, and help eligible individuals to retain coverage. The commenters highlighted the benefits our proposed policies would have on individuals, families, providers, States, and communities. On the individual level, commenters stated that the proposed rule would reduce individual burdens and worries, save money, and even make people happier. The commenters noted that it would help families by removing some of the barriers to accessing health care services during periods of great stress and economic insecurity, and that it would ensure their children have access to the health care services they need. Commenters noted that a reduction in churning will not only improve the health of beneficiaries, but it will also protect individual beneficiaries, and their families, from medical debt and associated stressors. Maximizing coverage for individuals, these commenters stated, will not only ensure better outcomes for the people enrolled in Medicaid and CHIP but may even save lives. Several commenters described the proposed changes as a long-term complement to our current efforts to minimize inappropriate coverage losses during the unwinding period following the end of the continuous enrollment condition.

Commenters also stated that these regulations would reduce burdens on States, save taxpayer dollars, and serve as a practical step toward ensuring the long-term sustainability of Medicaid and CHIP. Some commenters noted their belief that the current rules place an outsized emphasis on preventing the enrollment of ineligible individuals and that this rule will balance that interest with the ultimate goal of ensuring coverage for those who *are* eligible.

From the provider perspective, commenters explained that the reduction in enrollment churn resulting from the proposed streamlining of Medicaid and CHIP eligibility and enrollment processes would reduce administrative burdens on physicians and their practices. One commenter stated that it would help providers to maintain continuity of care and trust in their relationships with their patients. Another commenter stated that the September 2022 proposed rule would diminish the harmful consequences of churning, including disruptions in physician care and medication adherence; increased administrative costs for providers, Medicaid managed care plans, and States; and higher health costs when delayed care forces more expensive interventions. One commenter noted that eliminating barriers to enrollment in Medicaid and CHIP could lead to an increase in the number of Medicaid and CHIP beneficiaries and a reduction in uncompensated care costs, thereby protecting the viability of the medical safety net. Hospitals also commented that reduced churn from the policies proposed in the September 2022 proposed rule would lessen the workload for hospital staff who assist patients with program and financial assistance applications.

At the broader community level, commenters supported the proposed steps to promote health equity by eliminating barriers to initial and continuing enrollment in Medicaid (that is, form submission requirements rather than reliance on electronic data and verification). The commenters explained that because people of color are disproportionately likely to be enrolled in Medicaid and CHIP for health

coverage, lowering administrative burdens to make it easier to enroll in coverage and to reduce coverage disruptions could be critical to advancing health and racial equity. One commenter noted that by enabling low-income households to access the benefits to which they are entitled under law, the September 2022 proposed rule would effectively result in a transfer of funding (spending described in the regulatory impact analysis) from the Federal Government to Medicaid and CHIP beneficiaries through additional health care spending by those programs. The commenter explained that this transfer will not only enhance the health of the United States' low-income population but will also likely improve their financial well-being. Commenters also supported the proposal to address institutional bias by allowing for the projection of predictable costs in the community for home and community-based services.

Response: We appreciate commenters' support for the September 2022 proposed rule. As discussed in the background section of this final rule, Medicaid and CHIP play a key role in the United States health care system. While Medicaid and CHIP coverage can have a huge impact on the individuals served by these programs, we agree that the full value of the programs goes well beyond the individual beneficiaries.

We agree with commenters that the streamlined eligibility and enrollment processes established by this rule will help to reduce the churning of eligible individuals on and off Medicaid and CHIP. We agree with commenters that reduced churn has the potential to reduce administrative burdens for beneficiaries and their health care providers, improve the ability of beneficiaries and their providers to form lasting relationships, reduce the need for high-cost interventions that can result from delayed care, and protect beneficiaries from medical debt and providers from non-payment. We also agree with comments on the broader community impact of this rule. After completing the upfront investment in systems and training needed to implement the changes in this final rule, States should begin to see savings from the reduced administrative burden. In addition, we believe that healthier beneficiaries can be more productive in their homes, their work, and their communities.

Recognizing the benefits of this rule, we are finalizing (with some modifications) the changes included in the September 2022 proposed rule that were not included in the 2023 Streamlining MSP Enrollment final rule. Some of the proposed changes are modified in response to comments, and all modifications are discussed in the comment responses that follow.

Comment: We also received many comments that generally opposed the September 2022 proposed rule and urged CMS to withdraw the rule in its entirety. Commenters opposing the rule cited concerns about increased enrollment of ineligible individuals, increased program costs, reduced program integrity, and reduced flexibility for States. Other concerns raised were that the proposed rule would increase doctors' and hospitals' profits, take away individuals' choices, and decrease the quality of health care.

Some commenters stated that this rule would prohibit critical program integrity protections. These commenters expressed concern that changes proposed to streamline the enrollment process would permit ineligible individuals to enroll in Medicaid and CHIP, and they recommended tighter controls to protect the integrity of these programs. The commenters stated that loopholes in existing eligibility and enrollment processes, particularly with respect to the verification of eligibility, would be expanded by this rule, making it difficult for States to effectively verify Medicaid and CHIP eligibility.

Commenters opposing the proposals noted the increase in State costs described in the regulatory impact analysis and expressed concern that Medicaid and CHIP costs would increase. One commenter expressed concern that these changes were coming at the expense of State flexibility, taxpayers, and the truly needy who rely on the sustainability of Medicaid.

A few commenters stated that the proposed rule gives more control to the Federal Government at the expense of States. They believe the proposed rule weakens State flexibility to administer enrollment determinations. One commenter stated that they opposed the proposed changes noting that States are best positioned to set eligibility, renewal, and retention requirements for Medicaid and CHIP. Another commenter explained that because issues of health care vary from State to State, they believe it is wrong for CMS to establish a ''one size fits all'' approach.

Response: We appreciate commenters' concerns about protecting the integrity of the Medicaid and CHIP programs. As stewards of Federal funding for Medicaid and CHIP, we take program integrity very seriously. We maintained a focus on reducing the rate of improper payments as we developed the proposals finalized in this rule. For example, we expect the new requirements finalized in this rule for electronic recordkeeping will help ensure that State and Federal auditors can more easily verify the accuracy of eligibility determinations and payments made to providers. We also expect that establishing clear timeliness standards for acting on changes in circumstances and completing renewals will ensure that States do not continue to provide coverage to ineligible individuals for an extended period. These provisions will also ensure that States do not improperly deny coverage for a beneficiary who is eligible for Medicaid or CHIP. Accurate eligibility determinations in both situations are an important part of program integrity.

We disagree with comments suggesting that streamlining eligibility and enrollment processes and eliminating unnecessary administrative requirements will increase the enrollment of ineligible individuals. To the contrary, the focus of many of the proposed provisions is to reduce enrollment errors caused when *eligible* individuals are unable to overcome administrative barriers to enrollment. For example, by removing the requirement to apply for other benefits that do not impact an individual's eligibility for Medicaid or CHIP, this rule eliminates a burdensome step in the eligibility process that increases potential for caseworker- or system error. Additionally, this final rule increases State reliance on electronic data sources, such as States' asset verification programs, to verify eligibility, thereby reducing the burden for States, as well as applicants and beneficiaries, of submitting copies of paper documents that must be reviewed by a caseworker.

Regarding commenters' concerns about the increased costs associated with this rule, this final rule does not expand Medicaid or CHIP eligibility criteria to include new populations (for example, individuals with higher incomes or in categories not currently eligible for coverage under these programs). It simply removes barriers that prevent individuals who satisfy existing financial and other eligibility criteria from enrolling and remaining enrolled in these programs. We recognize that many of the provisions will require States to change their eligibility systems and their enrollment processes, and that these changes will generate upfront costs. However, as discussed in the regulatory impact analysis and collection of information sections, we believe these changes will create administrative savings that will continue to accrue in the future, and

that these savings will far outweigh the initial administrative costs. In addition, we note that enhanced Federal funding for design, implementation, and operation of State eligibility and enrollment systems is available in accordance with § 433.112(b)(14) for changes to support accurate and timely processing of eligibility determinations.

Finally, we understand commenters' concerns that some of the changes finalized in this rule will reduce the flexibility currently available to States. As we considered the comments submitted regarding each specific provision in this final rule, we looked for opportunities to provide States with more flexibility in achieving the policy goals of the September 2022 proposed rule. Revisions finalized in this rulemaking, which improve State flexibility, are discussed in detail in the responses to comments that follow.

A. Facilitating Medicaid Enrollment

1. Facilitate Enrollment by Allowing Medically Needy Individuals To Deduct Prospective Medical Expenses (42 CFR 435.831 and 436.831)

We proposed to amend § 435.831(g)(2) to permit States additional flexibility to project the incurred medical expenses of noninstitutionalized individuals who seek to establish eligibility for Medicaid as medically needy. Generally, the medically needy are individuals who have incomes too high to qualify in a categorically needy group described in section 1902(a)(10)(A) of the Act and who attain income eligibility by reducing their countable income to their State's medically needy income level (MNIL) by deducting the uncovered medical and remedial care expenses they, their family members, and financially responsible relatives have incurred (a process referred to as a ''spenddown''). When an individual qualifies as medically needy, the individual's eligibility lasts only as long as the State's medically needy budget period, which, under § 435.831(a), can be no longer than 6 months (and can be as short as 1 month), at which point the individual will need to meet their spenddown amount again with different incurred medical or remedial expenses to reestablish eligibility. This process causes frequent disruptions in medically needy-based Medicaid coverage and can pose administrative challenges to States.

In 1994, we amended § 435.831 to add a new paragraph (g)(1), under which we permitted States to *project* the costs of medical institutional expenses, at the Medicaid reimbursement rate, that individuals seeking eligibility as medically needy will incur in a budget period (59 FR 1659, 1673 (January 12, 1994)). As we explained in section II.A.5. of the preamble of the September 2022 proposed rule, ''projecting'' expenses means that a State deducts from the individual's countable income the medical expenses that it anticipates an individual will incur during a budget period. This can expedite eligibility because the individual does not have to first incur the anticipated expenses. As we explained, our rationale for permitting the projection of institutional expenses has been that such expenses are by their nature constant and predictable, and allowing their projection at the Medicaid rate offers States a simplified approach to determining the eligibility of institutionalized individuals as medically needy with a high degree of certainty of the accuracy of the determinations.

We believe that allowing projection of only institutional expenses, while not also allowing projection of predictable and constant services incurred by community-based individuals, fosters an institutional bias, and we therefore proposed to amend § 435.831(g)(2) to allow States to project the expenses of other services that are also reasonably constant and predictable. Our proposed regulation identified examples of services that we believe meet this criterion, including home and community-based services (HCBS) reflected in a person-centered service plan in accordance with § 441.301(b)(1)(i), § 441.468(a)(1), § 441.540(b)(5), or § 441.725 (relating to the HCBS authorized under section 1915(c), (i), (j) and (k) of the Act), and prescription drugs. We explained that features of these services create a high degree of likelihood of their continued receipt from month to month. We also proposed that States use the Medicaid reimbursement rate for the costs of the services they would project under proposed § 435.831(g)(2). We invited comment on other types of services that may meet the reasonably constant-and-predictable criteria, which we would consider including in the regulatory text.

In drafting the September 2022 proposed rule, we inadvertently failed to include a revision to § 436.831(g)(2) that mirrors the change proposed at § 435.831(g)(2) to permit Guam, Puerto Rico, and the Virgin Islands (collectively, the ''436 territories'') to make the same elections with respect to medically needy eligibility. This omission was unintentional, as most of the provisions of the proposed rule that are adopted in this final rule are applicable to the 436 territories as a result of incorporation by reference in existing regulations (as noted elsewhere throughout this final rule). The same reasons for adopting this option in § 435.831 also apply in the 436 territories, and we note that reference to the effects of such changes on all five U.S. territories was included in the discussion of information collection requirements in the proposed rule (87 FR 54820). We are including § 436.831(g)(2) in this final rule and note that all references to § 435.831(g) also apply to § 436.831(g).

We received the following comments on this provision in the proposed rule, and below are our responses.

Comment: Most commenters strongly supported the proposed regulation, with nearly all such commenters stating that the proposal would do one or more of the following: help reduce Medicaid's institutional bias; further the integration mandates of the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act; reduce eligibility churn and ensure greater continuity of coverage; and reduce administrative burden and complexity. A couple of commenters specifically noted that the proposed regulation will improve health equity.

Response: We appreciate the commenters' support. As explained in the following comment and response, we are finalizing the regulation as proposed.

Comment: We received many comments in response to our invitation for the identification of other types of services that are reasonably constant and predictable, and which could be considered for inclusion in the regulatory text. Commenters suggested a very broad variety of services, and many commenters recommended that we include the services they identified in the regulation text. Examples of the additional expenses which were suggested to us by commenters include personal care services, Program of All-Inclusive Care for the Elderly (PACE) services, additional drug-related costs, behavioral health services, durable medical equipment (DME), health insurance premiums, and laboratory tests.

Response: We appreciate the very thorough and thoughtful responses to our request. We agree that many of the expenses suggested by commenters, including health insurance premiums (such as, but not limited to, Medicare or PACE premiums paid by the individual), could meet the reasonably constant-and-predictable standard. However, we have decided to finalize the rule as proposed, in which the

examples of projectable services that will appear in the final regulation text will be those that were included in the proposed rule—that is, the services in plans of care for the section 1915-related HCBS benefits and prescription drugs. We note that the list of specific services included in the regulation text is illustrative, not exhaustive, and have concluded that, given the variety and volume of expenses which could meet the reasonably constant-and-predictable standard, the addition of all or most of such services to the regulation text would be too cumbersome. Additionally, we are concerned that a longer list may actually heighten the potential that someone would incorrectly conclude that the specifically identified services are the only permissible ones that States may project as reasonably constant and predicable.

Although we are not including additional examples in the final regulation, we confirm that the services in the regulation text are not exclusive, and that States are authorized to project services not specifically identified in the regulation which they determine to be reasonably constant and predicable. The language in the final rule (as in the proposed rule) provides that States may project expenses that they have determined to be reasonably constant and predictable ''including, *but not limited to,*'' the services in a person-centered service plan for section 1915-related HCBS and prescription drugs. (Emphasis added.)

We agree that many of the services identified by commenters could be reasonably constant and predictable. However, we decline to individually evaluate each service identified against that standard here. Under the final rule, discretion is left to each State to evaluate whether, and under what circumstances, a given service is considered reasonably constant and predictable. We believe that the services we have included in the regulation reflect practical examples of the reasonably-constant-and-predictable principle that will guide the type of services States may choose to project.

Comment: One commenter suggested removing all examples from the regulation text, expressing concern that the inclusion of examples may be inadvertently interpreted to limit the projection of expenses to those contained within a Medicaid-approved plan of care, which would make the option available only to individuals who have already established Medicaid eligibility and have an approved plan of care. The commenter suggested that CMS explicitly provide States with the option to expand prospective HCBS-related deductions to individuals with private-pay receipts or who have received support from a qualified entity (such as an Aging and Disability Resource Center) to develop a service plan.

Response: As explained previously in this final rule, we believe that adding other services to the regulation could increase the possibility that the list may be read as an exclusive one, in contrast to our intent. We disagree, however, that it is necessary to omit all examples from the regulatory text, because we believe, as also noted previously in this final rule, that the examples we include offer a useful gauge of our expectation on what may be considered reasonably constant and predictable. We also believe it is clear that the list of examples is illustrative but not exhaustive.

Comment: A commenter suggested that we replace specific HCBS references with a blanket reference to HCBS authorized under all authorities.

Response: As noted previously in this final rule, we believe that the specific services identified in the regulation offer a useful gauge of our expectations of what may be considered reasonably constant and predictable. The proposed regulation identified examples of services that we believe meet these criteria, including HCBS reflected in a person-centered service plan pursuant to § 441.301(b)(1)(i), § 441.468(a)(1), § 441.540(b)(5), or § 441.725 (relating to the HCBS authorized under section 1915(c), (i), (j) and (k) of the Act). While we agree that HCBS that are not reflected in a person-centered service plan pursuant to one of the authorities listed in proposed § 435.831(g)(2) could potentially include services that help an individual remain in the community (such as transportation), our goal is to provide clear examples of reasonably constant and predictable expenses in the regulation text. We believe that the proposed regulation text accomplishes that goal, since HCBS provided pursuant to a person-centered service plan necessarily meet that standard, whereas HCBS not reflected in such a plan may not, depending on the service and circumstances. We reiterate, however, that States are authorized to project services not specifically identified in the regulation which they determine to be reasonably constant and predictable, including HCBS that are not included in a person-centered service plan.

Comment: We received several comments that either requested clarification on whether this proposal would be optional for States or that implied the commenters believed it not to be optional. One commenter stated that the subsection heading for this proposal in the preamble is presented as an individual option instead of a State option, and the commenter recommended that we confirm that States do not have to elect this option. Another commenter indicated that this proposal would reduce State discretion. A few other commenters shared that the proposal would impose a burden on States (that is, additional staff training and system changes), and that, given the complexity of the proposal, the timeline for State implementation should be relaxed. One commenter stated that the proposal might possibly increase medically needy caseloads.

Response: We confirm that the authority to project noninstitutional expenses that we proposed and are finalizing at § 435.831(g)(2) in this final rule is a State option, not a mandate. We agree that the language of the heading in the preamble to the September 2022 proposed rule suggests an individual option instead of a State option, and we have revised it in this final rule preamble. We note, however, that we did not propose, nor did we make, a change to the paragraph heading of § 435.831(g) in which this new State authority is inserted (''Determination of deductible incurred medical expenses: *Optional deductions.*'') (Emphasis added). Given the optional nature of this provision, we disagree that it will impose a burden on States or that the timeline for State implementation should be longer (as there is not an implementation timeline for the election of this option). Although we believe that adopting the option will ease administrative burden, a State that believes negative outcomes that may possibly stem from permitting the projection of noninstitutional expenses would outweigh the benefits would not have to elect this option.

Comment: Many commenters took the position that, for HCBS participants, CMS *should* require States to project noninstitutional medical and remedial expenses, rather than making it optional. The commenters indicated that making it mandatory would streamline the process and reduce unnecessary burden on how people with extensive health care needs receiving HCBS must demonstrate their eligibility.

Response: As we explained in section II.A.5. of the preamble of the September 2022 proposed rule, our proposal to allow States to project noninstitutional expenses builds on the preexisting State regulatory option to project institutional expenses, a primary rationale of which

was to increase State flexibility. While we agree that expanding States' authority to project additional types of expenses will help streamline eligibility processes and offer important advantages to applicants and beneficiaries, we did not propose to eliminate State discretion in applying this policy. Doing so would be a substantial departure from the flexibility principles on which the proposed rule was based. Therefore, we are finalizing § 435.831(g)(2) as proposed. The projection of reasonably constant and predictable medical expenses in determining whether a medically needy individual has met their spenddown will be a State option under this final rule.

Comment: Several commenters requested that the regulation be extended to a broader range of people beyond those receiving services under the specific HCBS authorities included in the regulation text. One commenter noted that because use of services in an HCBS plan of care may vary greatly over the course of multiple budget periods, States may not be able to reasonably predict the individual's services costs in a forthcoming budget period.

Response: States are permitted under this regulation to project the cost of noninstitutional services for all medically needy individuals, regardless of whether such individuals are eligible for HCBS authorized under section 1915 of the Act, so long as the projected services are reasonably constant and predictable. States are also not limited to projecting the specific services identified in the regulation.

Comment: One commenter stated that proposed § 435.831(g)(2) would not eliminate Medicaid's institutional bias. The commenter indicated that individuals who become hospitalized and then apply for Medicaid are typically discharged by hospitals to nursing facilities instead of the community due to the higher degree of likelihood that they will establish Medicaid eligibility in the former. The commenter further stated that individuals who are thus discharged to a nursing facility and become Medicaid-eligible will likely choose to remain there, as a return to the community, with different financial eligibility rules, may pose a threat to their retaining Medicaid.

Response: We appreciate the concerns raised by the commenter. We have acknowledged in the past the challenges faced by Medicaid-eligible institutionalized individuals seeking to return to the community, and the proposed rule did not purport to eliminate all barriers individuals receiving institutional care may face in returning to the community. We previously issued a State Medicaid Director Letter on strategies that States may utilize to facilitate transitions from institutions to the community and connecting such individuals to HCBS. (Olmstead Update No. 3, July 25, 2000). We believe that the option provided under § 435.831(g)(2) of this final rule complements these strategies to further assist States in their rebalancing [9] efforts.

Comment: Two commenters stated that a plan of care may only be developed for an individual who has established Medicaid eligibility, with one of the commenters indicating that, as a result, projection of the plan-of-care costs would not assist a prospective medically needy individual in need of the HCBS.

Response: We disagree with the commenters. The eligibility group described in § 435.217, which covers individuals who are eligible for and will receive section 1915(c) services and who would be eligible if institutionalized, requires that section 1915(c) services be authorized before the individual may be enrolled in the group. This requires the completion of the plan of care as a condition precedent; for example, for individuals seeking coverage under this group, a State must complete a plan of care for section 1915(c) services *prior* to determining them eligible for Medicaid. Similarly, States are specifically authorized under sections 1915(c)(3) and 1915(i)(3) of the Act to apply special financial eligibility deeming rules for medically needy individuals seeking coverage for section 1915(c) or (i) services. This means that States electing to cover section 1915(c) or (i) services must confirm the need for such services as part of the underlying Medicaid eligibility determination. A State could develop a plan of care for the individual as part of this process; indeed, it often will make sense for the State to do so.

Comment: We received many comments relating to retroactive coverage for HCBS, with nearly all such commenters suggesting that retroactive HCBS coverage should be available to the same extent it is for institutional services. Some of the commenters claimed that the misalignment is biased toward institutional services or discriminatory.

Response: While not specifically stated by the commenters, we assume the comments on this point refer to the ''medical assistance'' definition in section 1915(c)(1) of the Act, which defines HCBS services as services that are provided ''pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such [HCBS waiver] services, the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan.'' We further believe that the commenters are proposing that if an individual is otherwise eligible for Medicaid coverage of other services, that the services that are in a section 1915(c) waiver participant's plan of care, but which are received by the individual before the plan of care is actually developed and the level-of-care determination has been made, also be eligible for Medicaid coverage. We appreciate the commenters' interest in this issue; however, it is beyond the scope of this rule. We note, however, that individuals who are eligible for HCBS are not categorically excepted from retroactive medical assistance coverage authorized under section 1902(a)(34) of the Act, and Medicaid beneficiaries may receive retroactive coverage for HCBS-related State plan services such as personal care services and home health care services.

Comment: A couple of commenters stated that requiring use of the Medicaid rate for noninstitutional expense projection is too prescriptive and requested that CMS provide flexibility for States to determine the appropriate rate.

Response: We do not agree that the requirement to use the Medicaid rate is overly prescriptive. Use of the Medicaid rate is appropriate to achieve the highest level of certainty that an individual will incur the liability that the regulation permits States to anticipate prior to the actual receipt of services. Use of a different rate increases the possibility that, upon reconciliation at the end of the budget period, an individual will be found not to have met their spenddown obligation (and thus to have been erroneously granted eligibility). Limiting the expenses projected to the Medicaid rate strikes an appropriate balance between preventing medically needy individuals from having to establish or reestablish eligibility based on a spenddown prior to receiving services and ensuring that individuals who are not reasonably certain to meet

[9] ''Rebalancing'' is defined in this context as achieving a more equitable balance between the share of spending and use of services and supports delivered in home and community-based settings relative to institutional care.

their spenddown obligation are not erroneously granted eligibility.

Comment: Some commenters recommended including community expenses that are not currently available to meet a spenddown, such as housing expenses (that is: rent, mortgage, and property taxes), utilities, and food.

Response: Expenses that are used to meet an individual's spenddown, whether they are projected or not, must meet the requirements of § 435.831(e) (''Determination of deductible incurred expenses: Required deductions based on kinds of services''). Changes to § 435.831(e) are beyond the scope of this regulation.

Comment: One commenter urged CMS to include in the regulation as projectable expenses those that are significant in cost but not necessarily predictable month-to-month.

Response: We are not permitting in the regulation the projection of expenses that are not reasonably constant and predicable. As explained in the preamble, the rationale for the projection of expenses is that the individual has expenses that the State can be reasonably certain the individual will actually incur the cost of during a budget period. We do not believe that intermittent or sporadic expenses, regardless of whether their cost is expected to be high, meet the standard needed to predict with reasonable certainty that the individual will incur them within a budget period. While we are not authorizing the projection of expenses that do not meet a reasonably-constant-and-predictable standard, we note that an individual's actually incurred medical and remedial expenses that meet the requirements of § 435.831(e) must be deducted during a budget period.

Comment: A couple of commenters requested that CMS specifically include section 1115 waivers in the HCBS authorities that are included in the regulation.

Response: As noted previously in this final rule, we are not adding additional services to the regulation beyond those that we originally proposed, and we reiterate that the services listed in the regulation text are not exhaustive. We confirm that a State that has received authority under section 1115(a)(2) of the Act to provide to State-plan eligible individuals coverage for services for which the State is not otherwise eligible for Federal Financial Participation (FFP) could project the cost of such services for individuals seeking to qualify as medically needy, provided that such services are reasonably constant and predictable.

Comment: One commenter inquired about whether a State would be required to define which non-institutional expenses it has determined meet the criteria and will be projected.

Response: States that elect to project institutional expenses are currently required to confirm their election in their Medicaid State plan. States that elect to project non-institutional expenses in accordance with § 435.831(g) of this final rule similarly will be required to confirm this election in their Medicaid State plan. States also should document each of the non-institutional expenses the State has determined will be projected in accordance with the State's election under § 435.831(g)(2) of this final rule, and the circumstances in which such expenses will be projected, in their policies and procedures.

Comment: Several commenters requested that CMS require States to revisit and modernize their MNILs to ensure that individuals have enough income available to meet their needs in the community.

Response: Changes to State MNILs are beyond the scope of this rule.

Comment: One commenter requested that the regulation include a requirement that if a determination is made that an individual no longer has reasonably constant and predictable medical expenses that meet his or her spenddown obligations, the individual should receive timely and advance notice after the renewal, with appeal and aid-paid-pending rights.

Response: The circumstances in which Medicaid's notice and fair hearing rights apply are set forth in 42 CFR part 431, subpart E. If a State's determination that an individual's medical or remedial care expenses are no longer constant and predictable implicates one of the circumstances described in part 431, subpart E (that is, as a result the individual is no longer eligible for the medically needy group), the individual will be entitled to advance notice and an opportunity for a fair hearing. The requirement for States to provide advance notice and fair hearing rights for individuals losing medically needy eligibility is not impacted by this final rule.

Comment: A couple of commenters urged CMS to include a longer period for projection of noninstitutional medical expenses, up to 12 months.

Response: The projection of expenses is made for the duration of the medically needy budget period elected by the State, which, under § 435.831(a)(1), cannot be longer than 6 months.

Comment: A few commenters objected to the expectation described in the preamble that States conduct reconciliations at the end of each budget period; for example, that they confirm that medically needy individuals actually incurred the amounts projected at the beginning of the budget periods. One commenter indicated that reconciliation is burdensome and could pose a barrier to enrollment. Another commenter stated that the reconciliations should occur at renewal instead of the end of budget periods.

Response: We believe reconciliation is necessary to ensure the projection process does not result in erroneous grants of eligibility. Reconciliation is also required for States that project institutional services. We disagree that conducting reconciliation at the point of an eligibility renewal is appropriate. It will be important for States to identify as quickly as possible medically needy beneficiaries whose projected expenses are not actually being incurred to (1) minimize the financial burden on the individual at the point of reconciliation, and (2) prevent further payment of medical assistance exceeding the amount for which the individual is eligible.

Comment: One commenter requested that CMS include language in the regulatory text that prohibits the termination of coverage retroactively when individuals are found not to have met spenddown obligations after reconciliation.

Response: Under § 431.211, States generally are not permitted to terminate an individual's Medicaid eligibility sooner than 10 days after providing notice that the individual is no longer eligible for Medicaid. While there are exceptions to this limitation, described in § 431.213, none of those exceptions relate to a circumstance in which an individual may have received an erroneous grant of Medicaid eligibility based on the projection of their medical or remedial care expenses. Section 431.211 applies equally to individuals eligible for medically needy coverage, and we do not consider it necessary or appropriate to repeat this requirement in § 431.831.

Comment: One commenter recommended that the regulation require only documentation of the predictability of prospective bills without requiring proof of payment during the budget period in which expenses are projected, as there is often a lag in billing times.

Response: Such an addition to the regulation would not be consistent with Federal policy. Expenses for incurred medical or remedial care services are

counted in meeting an individual's spend down amount under § 435.831, regardless of whether or not the individual actually pays the provider for the services. The regulation at § 435.831(f)(5) identifies the particular circumstance in which an actual *payment* must also be deducted (specifically, *payments* made during a current budget period for services incurred previous to the budget period and which were not deducted as *expenses* in a previous budget period). In these circumstances, States may verify that the payment was made. However, we note that the past consistency of *payments* made by an individual seeking to qualify as medically needy by projecting the cost of an expense that is reasonably constant and predictable may not be a factor in determining the amount to be projected.

Comment: One commenter inquired about how the new authority to project noninstitutional expenses will work in conjunction with the ''hypothetical spenddown'' process used by States that determine eligibility for HCBS through the medically needy eligibility pathway.

Response: As mentioned previously in this final rule, the eligibility group described in § 435.217 (generally referred to as ''217 group'' beneficiaries) serves individuals who are eligible for and will receive section 1915(c) services and who would be eligible if institutionalized. While individuals in this group are, as required under §§ 435.726 and 435.735, subject to post-eligibility treatment-of-income (PETI) rules, many States allow 217 group beneficiaries to keep all of their income to meet their community needs. This is effectuated by a State setting the maintenance allowance used in the PETI calculation for 217 group beneficiaries at the income eligibility standard for the State's 217 group. For example, if 300 percent of the supplemental security income (SSI) benefit rate is the income eligibility standard for the State's 217 group, the State would elect 300 percent of the SSI benefit rate as the maintenance allowance. However, individuals who need section 1915(c) services but who have incomes in excess of the 217 group income standard commonly must qualify as medically needy to access such services, which requires them to reduce their income to the State's MNIL, which is typically an amount well below the State's maintenance allowance for the 217 group.

The hypothetical spenddown policy enables States, at their option, to project the costs of institutional expenses that would be incurred by an otherwise medically needy individual if that individual were institutionalized. If the individual would meet their spenddown if they were actually in an institution, a State electing this policy could deem the individual to be one who *would be eligible if institutionalized,* thereby enabling the individual to be eligible under the 217 group. This allows the individual to keep the amount of their income equal to the State's section 1915(c) maintenance allowance for the 217 group, instead of having to spend down all of their income in order to establish eligibility while remaining in the community.

This option is not impacted by the policy finalized in this rulemaking at § 435.831(g), which enables States to project reasonably predictable and constant non-institutional medical expenses an individual expects to incur. However, we note that there is now a more versatile option available to States. As described in ''State Flexibilities to Determine Financial Eligibility for Individuals in Need of Home and Community-Based Services'' (SMD #21–004, December 7, 2021), States can adopt income and resource disregards targeted at individuals who need HCBS, which includes the authority to target disregards at the 217 group, which also enables States to provide HCBS through the 217 group to individuals at higher income levels. We are available to provide technical assistance to any State interested in either of these options.

After considering the comments received, we are finalizing the regulation text at § 435.831(g)(2) as proposed without modification. We note that because the effect of this change is specific to the computation of medical expenses of noninstitutionalized individuals who seek to establish eligibility for Medicaid as medically needy, it operates independently from the other provisions of this final rule.

2. Application of Primacy of Electronic Verification and Reasonable Compatibility Standard for Resource Information (§§ 435.952 and 435.940)

We proposed revisions to clarify that the regulations at § 435.952, regarding the use of information to verify an individual's eligibility, apply not only to verification of income and non-financial information, but also to the verification of resources. The language of § 435.952 is written broadly to encompass all factors of eligibility, including income and resource criteria, when applicable. However, because § 435.952(b) applies specifically to information needed by the State to verify an individual's eligibility in accordance with § 435.948 (relating to income), § 435.949 (relating to information received through the Federal Data Services Hub), or § 435.956 (relating to non-financial eligibility requirements), some have interpreted this requirement not to apply to verification of resources. Therefore, we proposed revisions to paragraphs (b) and (c) of § 435.952 to clarify that this provision applies to any information obtained by the State, including resource information. Since § 435.952 applies to resource information obtained from electronic data sources, such as an asset verification system (AVS) described under section 1940 of the Act, we also proposed a corresponding technical change to add section 1940 of the Act to § 435.940 (regarding the basis and scope of the verification regulations). As a reminder, when implementing a reasonable compatibility standard for resources, States should continue to evaluate resources on an individual basis (subject to existing regulations under § 435.602) and not on a household basis.

We received the following comments on these proposed provisions:

Comment: Commenters overwhelmingly supported the proposed changes clarifying that States should, to the extent possible and when reasonably compatible, rely on electronic data for verifying resources to streamline eligibility processes and alleviate the administrative burden for States and individuals. Further, commenters expressed that clarifying that the reasonable compatibility standards also apply to the verification of resources would increase the efficiency of the eligibility determination process for individuals who are age 65 or over, are blind, or have a disability (referred to herein as ABD individuals), as these individuals generally are required to have resources under a certain threshold in order to be eligible for Medicaid. Multiple commenters also supported the proposed changes because they would reduce churn, where eligible individuals lose eligibility (generally for a procedural reason such as not returning requested documentation) and then reapply and are determined eligible again.

Response: We appreciate the overwhelming support for the proposed revisions at § 435.952. We agree with commenters that applying a reasonable compatibility standard will increase the efficiency and reduce administrative burden for States when determining eligibility for individuals for whom a resource standard is required. States are already required to apply a reasonable compatibility standard for income for all

populations under existing regulations at § 435.952. As commenters noted and we agree, our proposed policy will also streamline the eligibility process for consumers, because individuals will not be required to provide additional paper documentation of resources when electronic data sources provide information that is reasonably compatible with the individual's attestation. This streamlining will facilitate enrollment of eligible individuals. For example, if the resource threshold for non-MAGI eligibility is $2,000, the individual attests to $1,700 in financial assets from two sources and the AVS returns a resource amount of $1,850, the attested resource information and the resource information returned from the AVS both would be below the relevant threshold of $2,000, and therefore considered reasonably compatible, and no additional information from the individual would be needed. This is true regardless of the other data elements returned by the AVS such as the type or name of an asset which differs from the two sources listed in the attestation, or if the $1,850 includes a third source that was not included in the attestation.

Comment: A few commenters raised concerns that the proposal would increase fraud in the Medicaid program and divert health care dollars and services from the neediest Americans. One commenter suggested that the rule should require individuals to provide verification of their resources rather than comparing self-attested information to data from electronic sources. The commenter stated that the proposed changes would increase Medicaid enrollment of ineligible individuals. This commenter suggested that the rule require individuals to verify their financial information, because such a policy would combat intentional fraud and remove middle and upper-income individuals from the Medicaid program.

Response: We disagree that the proposed changes will increase fraud in the Medicaid program. The proposal would not limit States' statutory obligation to verify factors of an individual's eligibility. States currently must verify resources using an AVS described in section 1940 of the Act for individuals whose eligibility is subject to a resource test, and nothing in this rulemaking changes that requirement. As clarified in this final rule, § 435.952(c)(2) requires States to seek additional information, which may include documentation, if attested information is not reasonably compatible with information obtained through the AVS or other electronic data match. This means that if the resource information to which the individual attests is not reasonably compatible with information obtained through an electronic data match, and thus could affect whether the individual would be eligible for Medicaid, the State must seek additional information from the individual. If electronic data verifies an individual's attestation, there is no need for a State to require additional proof. Doing so would only add burden for both the State and the individual and diminish program integrity by potentially preventing the enrollment of an individual who is eligible for the program. In the final rule, we have made minor modifications to § 435.952(c)(1) to make sure it is clear that the policy described above is the same for income and resources (meaning that resource information must be considered reasonably compatible if the resource information obtained electronically and the information provided by or on behalf of the individual is either at or below the applicable standard or other relevant threshold). Thus, we are finalizing the revisions at § 435.952(b) and (c)(1) as proposed with minor clarifying modifications to paragraph (c)(1).

Comment: One commenter suggested that CMS make our proposed modifications to § 435.952(b) and (c)(1) optional for States until more extensive work has been done to ensure that electronic data sources have sufficient information to verify resources. The commenter noted that verification of many types of resources may not be available through electronic data sources such as an AVS, for example, non-homestead real property, automobiles and other vehicles, equipment, investments, annuities, and retirement assets.

Response: We disagree that application of the regulations at § 435.952 to verification of resources should be at State option. The State must attempt to verify and determine eligibility in accordance with its verification plan, which may include requesting additional information and documentation from the individual in appropriate circumstances. Documentation from the individual may be sought to verify an individual's assets when electronic data is inconsistent with attested asset information as well as when electronic data are not available (that is for non-financial assets) and establishing a data match would not be effective in accordance with § 435.952(c). The verification rules at § 435.952, including the reasonable compatibility requirements, reduce burden on both individuals and States and thus further the effective and efficient administration of the State plan and best interests of beneficiaries. Further, the current regulation at § 435.952 is written broadly to encompass all factors of eligibility, including resource criteria when applicable. The current regulations apply to verification of resources; this final rule clarifies the regulations to explicitly reflect as much. Finally, all 50 States, the District of Columbia, and Puerto Rico are required to implement an AVS to verify financial assets under section 1940 of the Act. States would be required to access other electronic data sources for asset verification only to the extent that such sources are available and would be effective in accordance with § 435.952(c)(2)(ii).

Comment: A few commenters expressed concerns about operational and technological challenges in implementing this provision within the timeframe described in the September 2022 proposed rule, including some States that operate an AVS as a separate portal that is not integrated into the State's Medicaid eligibility system. Some commenters shared that applying a reasonable compatibility standard to resources would require a manual process until the State is able to make systems changes. Some commenters stated that system enhancements to make a reasonable compatibility determination for evaluation of resources would require the development of a new interface and new system rules, which would be difficult to complete within the 12-month implementation timeframe proposed.

Response: We appreciate the operational concerns expressed by commenters and understand that this provision may lead States to implement operational changes and system enhancements. It is our understanding that if a State is using an AVS through a separate portal, there is already a manual process in place. Modification of the manual process requires re-training, but not a new interface. If a State is using an AVS through an automated interface, it may undertake modification of comparison logic and rules, but no new interface and/or rules need to be implemented. Because this is an existing requirement, and because this final rule does not add any new or additional burden, we are not providing additional time for State compliance with this provision. We recognize that some States are in the midst of other significant system changes and we will continue to work with them to ensure compliance with this requirement as soon as possible.

Comment: A few commenters expressed concerns about the data quality and timeliness of responses from an AVS, which can delay eligibility determinations and prevent States from meeting application and renewal processing deadlines. Some of these commenters also raised concerns that not all financial institutions participate in AVS. A number of commenters requested additional technical assistance from CMS on details about how AVS programs should be operationalized. For example, due to the frequency of the AVS returning missing information or delayed information from smaller banks, one commenter requested clarification on the timeframe in which the AVS verification is considered complete and when to apply the reasonable compatibility standard.

Response: We appreciate the comments regarding data quality and the timeliness of the information returned from the AVS. We understand that not all asset information available from financial institutions participating in the AVS is returned in real time. States may establish a reasonable timeframe to review information that is returned from an AVS. We understand that most financial institutions respond to AVS requests within 5 days, which a State could consider a reasonable amount of time to wait for information to be returned before the State applies the reasonable compatibility standard. If the State determines that the information returned from the AVS is incomplete, or if the AVS does not return information within the reasonable timeframe established by the State, the State must attempt to determine eligibility in accordance with its verification plan, which may include requesting additional information and documentation from the individual. We continue to be available to provide additional technical assistance to States regarding operationalizing of AVS and the application of verification rules at § 435.952 to electronic information obtained from an AVS.

Comment: One commenter requested clarification on how reasonable compatibility would interact with resource assessments and 90-day asset transfers to community spouses.

Response: We interpret this comment as requesting feedback on how resource-related reasonable compatibility would operate in the context of the spousal impoverishment rules described in section 1924 of the Act (''Treatment of Income and Resources for Certain Institutionalized Spouses''), both at the underlying eligibility and redetermination phases. Reasonable compatibility, as explained immediately below, is sometimes, but not always, relevant under the spousal impoverishment rules.

Section 1924(c)(2) of the Act requires that a State determine the amount of countable resources an institutionalized spouse and community spouse own, jointly or separately, at the time of the institutionalized spouse's Medicaid application. This amount, minus the community spouse resource allowance (CSRA) determined under section 1924(f)(2) of the Act, is the amount deemed available to the institutionalized spouse and compared to the resource standard of the eligibility group for which the institutionalized spouse is being evaluated. Effectively, the resource standard for the institutionalized spouse is the CSRA plus the resource standard for the relevant eligibility group.

Consider, for example, an institutionalized spouse who is being evaluated for the eligibility group described in section 1902(a)(10)(A)(ii)(V) of the Act (relating to individuals who have been in medical institutions for at least 30 consecutive days) in a State in which the CSRA is $70,000. The resource standard for the eligibility group is $2,000, which effectively means the institutionalized spouse will be resource-eligible if the resources owned by the couple are equal to or less than $72,000. Reasonable compatibility could be applied in making this determination. If the institutionalized spouse self-attests that the spouses have $60,000 in a savings account and no other countable resources, and the data returned on the couple's resources by the State's AVS is $65,000, the State would consider the amounts reasonably compatible and determine the institutionalized spouse resource-eligible without requiring additional documentation.

Section 1924(f)(1) of the Act permits the institutionalized spouse to transfer their interest in any resources to the community spouse as soon as practicable after being determined eligible, as any resources still in the institutionalized spouse's name at their first renewal will be deemed available to the institutionalized spouse, including resources that were considered to be part of the CSRA at application. In other words, while each spouse's ownership of resources is not relevant at the determination of the institutionalized spouse's eligibility, it *is* relevant at the institutionalized spouse's redetermination. Reasonable compatibility would not serve a role in the verification of whether the institutionalized spouse maintains *ownership* of resources that were included in the initial calculation of resource eligibility.

We note that section 1924(c)(1) of the Act also requires that a State determine the resources owned by the institutionalized spouse and community spouse at the former's first continuous period of institutionalization. However, while this amount may be relevant in determining the CSRA under section 1924(f)(2) of the Act, it is not compared to a resource-eligibility standard, which means that reasonable compatibility would not apply to a State's verification of this figure.

Comment: One commenter suggested this September 2022 proposed rule may be a good opportunity to modernize the MAGI and non-MAGI verification plan submission and review process and move towards a web-based submission process instead of submitting verification plans via email.

Response: We appreciate the comment to improve the verification plan submission and review process. The comment is outside the scope of this rule. However, we will consider the comments for future enhancements of the verification plan review process.

After considering the comments, we are finalizing the revisions at §§ 435.940 and 435.952(b) and (c)(1) as proposed. We note that because the effect of this change is specific to clarifying current regulations regarding States' use of electronic data for verification of assets, it operates independently from the other provisions of this final rule.

3. Verification of Citizenship and Identity (42 CFR 435.407 and 457.380)

A State must verify an applicant's U.S. Citizenship under section 1902(a)(46)(B) of the Act, implemented at §§ 435.406 and 435.956(a). When a State has not been able to verify an applicant's U.S. citizenship through an electronic data match with the Social Security Administration (SSA), it must verify the applicant's U.S. citizenship using alternative methods described under §§ 435.407 and 435.956(a)(1). Under current regulations, individuals whose citizenship is verified based on any of the sources identified in § 435.407(b)—which include a match with a State's vital statistics records or with the U.S. Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) program—must also provide proof of identity. Verification with a State's vital statistics records or DHS SAVE system, like the data match with SSA, provides both proof of U.S. citizenship or nationality and reliable documentation of personal identity. Once U.S.

citizenship is verified via a State's vital statistic records or DHS SAVE, a State may not require an individual to provide additional proof of identity as a condition of eligibility. As such, in the September 2022 proposed rule, we proposed to move verification of birth with a State's vital statistics records and U.S. citizenship with DHS SAVE system to the list of primary verifications of U.S. citizenship that do not require additional proof of identity, at § 435.407(a)(7) and (8) respectively. These changes are incorporated into CHIP through an existing cross-reference at § 457.380(b)(1)(i). We also proposed to remove the phrase ''at State option'' from § 435.407(b)(2), as use of such data match with a vital statistics agency is not voluntary if it is available and effective in accordance with § 435.952(c)(2)(ii).

We received the following comments on these proposed provisions:

Comment: The majority of commenters were in support of the proposed changes to allow verification of birth with a State vital statistics agency and verification of citizenship with DHS SAVE system, or any other process established by DHS, as stand-alone evidence of citizenship. Commenters agreed the changes would provide additional efficiencies in the eligibility determination process and limit the burden on applicants to provide documentation of citizenship without increasing the risk of erroneous eligibility determinations.

Response: We appreciate the support for the proposed changes at § 435.407(a)(7) and (8). We agree that allowing States to electronically verify birth with a State vital statistics agency or to verify citizenship with DHS SAVE system will create administrative efficiencies for States and eliminate the need for applicants to provide unnecessary additional information without an increased risk of erroneous eligibility determinations. In section II.A.7. of the September 2022 proposed rule, we provided details on the efficacy of these data sources, both of which serve as primary information sources, one for evidence of U.S. birth (State vital statistics) and the other for naturalized U.S. citizenship (DHS SAVE system).

Comment: A few commenters noted that some States do not have systems alignment with vital statistics, so these system changes could be costly and time consuming for States to implement.

Response: We considered these comments and acknowledge that not every State may have an existing electronic system that matches an applicant's or beneficiary's data with the State vital statistics agency. It is optional for Medicaid and CHIP agencies to have a data match established with their State vital statistics agency. We note that the proposed changes to allow birth verification through an electronic match to a State's vital statistics agency, if use of such match is available and effective (considering such factors as associated costs to the data match, cost of reliance on paper documentation, and impact on program integrity) in accordance with § 435.952(c)(2)(ii), is not a new requirement for States in this final rule. Establishing such a data match with State vital statistics agencies also promotes data integrity in the Medicaid and CHIP programs. Once such a data match is established, the State must utilize it to verify U.S. citizenship when the information from the applicant is not able to be verified with SSA or DHS, rather than requesting paper documentation from the individual.

If a State does need to make changes to its eligibility system, FFP is available at the 90 percent rate (enhanced FFP or enhanced match), in accordance with § 433.112(b)(14), for changes to support accurate and timely processing of eligibility determinations, like data matching with a State's vital statistics agency, other States' vital statistics agencies, or DHS SAVE system. Approval for enhanced FFP or enhanced match requires the submission of an Advanced Planning Document (APD). A State may submit an APD requesting approval for a 90/10 enhanced match for the design, development, and implementation of their Medicaid Enterprise Systems (MES) initiatives that contribute to the economic and efficient operation of the program, including the electronic data exchanges discussed here. Interested States should refer to 45 CFR part 95, subpart F (Automatic Data Processing Equipment and Services—Conditions for Federal Financial Participation (FFP)), for the specifics related to APD submission. States may also request a 75/25 enhanced match for ongoing operations of CMS approved systems. Interested States should refer to 42 CFR part 433, subpart C (Mechanized Claims Processing and Information Retrieval Systems), for the specifics related to systems approval.

For some States, this rulemaking may require some eligibility and enrollment systems changes, changes to operational eligibility processes, and/or potential verification plan revisions, at the same time when States are facing a significant workload following the unwinding of the continuous enrollment condition. Therefore, we are providing States with 24 months following the effective date of this final rule to demonstrate compliance with the changes. We urge all States to comply as soon as possible.

Comment: One commenter recommended CMS require States to accept birth certificates (paper or electronic) issued by the State's vital statistics agency as stand-alone evidence of U.S citizenship.

Response: We thank the commenter for this comment to consider allowing a paper copy or electronic version (that is, a PDF obtained via email) of a birth certificate from a State's vital statistics agency as stand-alone evidence of U.S. citizenship. However, with such documentation, it may be difficult for the State to know what, if any, set of identifiable information was used to obtain such birth certificate or if a data match of such information was required to obtain the paper or electronic version of the birth certificate. A paper or electronic copy of a birth certificate could be altered, causing potential concern for program integrity. By contrast, data matching for identity occurs when the State agency uses a set of personally identifiable information from the applicant to check against the State vital statistics agency for a match, enabling electronic verification of birth or U.S. citizenship. As such, we believe this provision will enhance program integrity. Evidence of identity as specified in § 435.407 would still need to be verified if a paper copy or electronic version of a U.S. birth certificate is provided, without evidence that verification with a State vital statistics agency was completed.

Comment: One commenter requested that REAL IDs be included in the list of documents providing stand-alone evidence of citizenship, since they are verified with the State's vital statistics agency.

Response: This comment is outside the scope of the proposed rule. However, it should be noted that if a State requires proof of U.S. citizenship for issuing a valid State-issued driver's license, this document can serve as stand-alone evidence of citizenship under existing regulations at § 435.407(a)(4).

Comment: Some commenters were concerned that the proposed regulation would prohibit States from verifying eligibility, could lead to increased fraud and waste in Medicaid and CHIP, and could result in ineligible individuals being enrolled in coverage.

Response: We do not believe this proposal would cause ineligible individuals to be enrolled in coverage. In fact, we believe it may reduce potential fraud and waste in the

Medicaid and CHIP programs, thereby improving program integrity. First, verifying U.S. citizenship directly through an electronic interface with a State vital statistics agency or through DHS SAVE system decreases reliance on paper documentation which may be more difficult for the individual to obtain, take longer to verify, or have a higher chance of being altered. Second, verification of U.S. citizenship with a State vital statistics agency or DHS SAVE system requires a robust data matching process. The Medicaid or CHIP agency must provide the State vital statistics agency with a minimum set of identifiable information, including the name, date of birth, and Social Security number (SSN) before a response is provided. Similarly, DHS SAVE system reviews a set of identifiable information to verify identity before providing a response that verifies U.S. citizenship, and in some cases, the DHS SAVE system requires additional information or paper documentation from the individual to complete the verification. Third, State vital statistics agencies record and maintain evidence of birth in the State, making them the primary source of evidence of U.S. citizenship for many individuals. Likewise, DHS is the agency that makes decisions to grant U.S. citizenship for individuals who are naturalized U.S. citizens. Thus, the DHS SAVE system is the primary Federal data source that is able to verify an individual's attestation that they are a naturalized U.S. citizen.

Comment: A few commenters indicated that only U.S. citizens, not noncitizens, should receive government benefits.

Response: This comment is outside the scope of this proposed rule. Changes proposed at § 435.407 apply only to individuals who have declared to be U.S. citizens; they do not apply to noncitizens. We note that Federal law, such as the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), governs eligibility of noncitizens for Federal means-tested public benefits, including Medicaid and CHIP.

After consideration of the public comments we received, we are finalizing without modification our proposal to move verification through a match with a State's vital statistics records or with the DHS SAVE program from paragraph (b) to paragraph (a) of § 435.407 as proposed. We are also finalizing without modification our proposal to remove the phrase ''at State option'' from § 435.407(b)(2), as use of such data match with a vital statistics agency is not voluntary if it is available and effective in accordance with § 435.952(c)(2)(ii). We note that because the effect of this change is specific to simplifying verification procedures to allow verification of citizenship with a state vital statistics agency or SAVE without separate identity verification, it operates independently from the other provisions of this final rule.

B. Promoting Enrollment and Retention of Eligible Individuals

1. Aligning Non-MAGI Enrollment and Renewal Requirements With MAGI Policies (§§ 435.907(c)(4) and (d) and 435.916)

Since the passage of the ACA, States have been required to apply streamlined application and renewal processes to applicants and beneficiaries whose financial eligibility is based on MAGI. Despite their potential benefit, these procedures have been optional for individuals excepted from use of the MAGI-based methodologies at § 435.603(j) (''non-MAGI'' individuals). As discussed in section II.B.1. of the September 2022 proposed rule, we proposed to revise requirements at §§ 435.907 and 435.916 to require that States adopt many of the streamlined application and renewal procedures currently required for MAGI applicants and beneficiaries for non-MAGI individuals as well. We believe these changes promote equity across all populations served by Medicaid.

As noted in the proposed rule, States are currently expected to accept applications and supplemental forms needed for individuals to apply for coverage on a non-MAGI basis via all modalities identified in § 435.907(a), although this is not expressly stated in the regulations. Therefore, we proposed to codify in regulation at new § 435.907(c)(4) the requirement that any MAGI-exempt applications and supplemental forms must be accepted through all modalities currently allowed for MAGI beneficiaries. We also proposed at § 435.916(a)(1) to require that States conduct regularly-scheduled eligibility renewals once, and only once, every 12 months for all non-MAGI Medicaid beneficiaries with one narrow exception (discussed below). Next, we proposed to require that States provide MAGI-excepted beneficiaries whose eligibility cannot be renewed based on information available to the State with: § 435.916(b)(2)(i), (1) a pre-populated renewal form that contains information available to the agency; and (2) a minimum of 30 calendar days from the date the agency sends the renewal form to return the signed renewal form along with any required information; and at § 435.916(b)(2)(iii), (3) a 90-day reconsideration period for individuals who return their renewal form after the end of their eligibility period and following termination for failure to return the form. We also proposed at § 435.916(b)(2)(iv) to eliminate the State option to require an in-person interview as part of the application and renewal processes for non-MAGI beneficiaries. States currently are required to comply with each of these policies for MAGI-based individuals.

Lastly, in the September 2022 proposed rule, we proposed several technical changes, on which we did not receive any comments, including: (1) at proposed § 435.916(b)(2)(i)(B) to clarify that the 30 calendar days that States must provide beneficiaries to return their pre-populated renewal form begins on the date the State sends the form; (2) at proposed § 435.916(b)(2)(iii) to specify explicitly our current policy that the returned renewal form and information received during the reconsideration period serve as an application and require, via cross reference to § 435.912(c)(3) of the current regulation, that States determine eligibility within the same timeliness standards applicable to processing applications, that is, 90 calendar days for renewals based on disability status and 45 calendar days for all other renewals; (3) at proposed § 435.916(d)(2) to ensure that, prior to terminating coverage for an individual determined ineligible for Medicaid, States determine eligibility for CHIP and potential eligibility for other insurance affordability programs (that is, BHP and insurance affordability programs available through the Exchanges) and transfer the individual's account in compliance with the procedures set forth in § 435.1200(e); and (4) at proposed § 435.912(c)(4), with a cross reference in proposed § 435.916(c), to establish time standards for States to complete renewals of eligibility.

This final rule redesignates several provisions from § 435.916 to the new § 435.919 rule, as discussed in section II.B.2. of this preamble. As a result, several paragraphs of § 435.916 are renumbered in this final rule. For example, § 435.916(g) (relating to accessibility of renewal forms and notices) is redesignated to § 435.916(e) of this final rule. We did not receive any comments on this change. However, as a reminder, this provision requires State Medicaid programs to ensure that any renewal form or notice be accessible to persons who have limited English proficiency and persons with disabilities, consistent with § 435.905(b). Further, State Medicaid

programs are separately required under Federal civil rights laws to conduct their programs and activities in an accessible manner. State agencies that receive Federal financial assistance must take reasonable steps to ensure meaningful access to individuals with limited English proficiency, which may include provision of language assistance services (section 1557 of the ACA, 42 U.S.C. 18116; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*). States are also required to take appropriate steps to ensure effective communication with individuals with disabilities, including provision of appropriate auxiliary aids and services (section 1557; section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; and Title II of the Americans with Disabilities Act, 42 U.S.C. 12131 *et seq.*).[10] Nothing in this final rule changes these requirements.

We note that the requirements in part 435, subpart J, apply specifically to the 50 States, the District of Columbia, the Northern Mariana Islands, and American Samoa and through a cross reference at § 436.901 they also apply to Guam, Puerto Rico, and the Virgin Islands (with the exception of § 435.909). The revisions to §§ 435.907 and 435.916, and all other revisions to part 435, subpart J, included in this rule, apply equally to the 50 States, the District of Columbia, and all territories.

We received the following comments on these proposed provisions:

Comment: Commenters generally supported the alignment of the non-MAGI with MAGI processes proposed under §§ 435.907 and 435.916, including allowing non-MAGI individuals to apply and renew through all modalities, renewing eligibility no more frequently than every 12 months, providing a pre-populated renewal form, giving enrollees 30 days to respond, and allowing a 90-day reconsideration period. Commenters noted that these proposed requirements, which originated in the ACA for the MAGI-based populations, have all proven possible to implement and effective at reducing churn of beneficiaries on and off Medicaid. Furthermore, non-MAGI populations tend to have fixed, routine sources of income, and so tend to stay consistently eligible, and yet, commenters asserted, States have not been allowed to extend to them the simplified enrollment and renewal processes available to MAGI populations that would help prevent churn. Therefore, commenters support now extending these policies to the non-MAGI groups as proposed in the September 2022 proposed rule.

Other commenters pointed out that the proposed changes to align renewal requirements for MAGI and non-MAGI individuals would reduce administrative burdens on State Medicaid agencies, by creating one simplified set of renewal rules for State eligibility and enrollment call center workers, enrollees, assisters, and other interested parties to understand and implement. One commenter also highlighted that the September 2022 proposed rule would extend some of the requirements for applications to renewals, such as at proposed § 435.916(b)(2)(iii), which, via cross reference to § 435.912(c)(3) of the current regulation, would require that States determine eligibility at renewal within the same timeliness standards applicable to processing applications; this would allow States to consolidate eligibility and enrollment information for each applicant or beneficiary in one case record.

Response: We agree with these commenters that aligning these application and renewal procedures will promote continuity of coverage, decrease churn, and simplify the renewal process for non-MAGI beneficiaries in a manner that is in the best interest of beneficiaries, consistent with section 1902(a)(19) of the Act. We note that this alignment will be particularly beneficial to individuals in households in which some individuals are eligible based on MAGI and others are eligible on a non-MAGI basis, as non-MAGI household members may otherwise be subject to more burdensome administrative requirements. We also believe alignment will reduce administrative burden for States. We want to clarify that, under the current regulations, States are permitted, at their option, to apply to their non-MAGI populations the application and renewal procedures we proposed to require in this rulemaking. The proposed revisions at §§ 435.907(c)(4) and 435.916(a)(1) and (b)(2)(i), (iii), and (iv), which we are finalizing as proposed in this final rule, will make it mandatory for States to do so.

Comment: One commenter noted that the proposal at § 435.907(c)(4), requiring that States accept all MAGI-exempt applications and supplemental forms provided by applicants seeking coverage on a non-MAGI basis through all the modalities allowed for MAGI individuals, would require substantial systems changes to implement, as currently non-MAGI renewals are processed in a separate system from MAGI renewals, and such updates would take longer than 12–18 months given States' unwinding priorities.

Response: We understand that State system updates needed to accept applications and supplemental as well as renewal forms via additional modalities will take time and resources. However, as this is a longstanding policy being codified through rulemaking, we find this to be a reasonable investment given the reduction in beneficiary burden that will result from being able to submit required information in whatever modality best fits the needs of the applicant or beneficiary. CMS has been working with States to enforce this requirement, and those not already in compliance now have a mitigation plan approved by CMS to come into compliance.

Additionally, while encouraged, there is no requirement for States to integrate non-MAGI with MAGI systems but rather to make non-MAGI applications and renewals possible through the same modalities—for example, paper, phone, web-based—as MAGI applications and renewals. We do recognize the operational challenges States face and are finalizing these requirements so that they are effective upon the effective date of this rule, except as otherwise required (such as by the CAA, 2023). However, States will have 36 months after the effective date of this rule to complete all system and operational changes necessary for compliance. This implementation timeframe will permit States to complete most unwinding and mitigation-related activities and then have adequate time to complete any additional system changes needed for full compliance with the requirements to align non-MAGI application and renewal requirements with those applicable to MAGI beneficiaries.

We remind States that enhanced FFP is available, in accordance with § 433.112(b)(14), at a 90 percent matching rate for the design, development, or installation of improvements to Medicaid eligibility determination systems, in accordance with applicable Federal requirements. Enhanced 75 percent FFP is also available for operations of such systems, in accordance with applicable Federal requirements.

Comment: Some commenters specifically supported the proposed limitation on renewals to no more than once every 12 months at § 435.916(a)(1),

[10] For more information, *see* U.S. Dept of Health & Human Servs., Re: Ensuring Language Access for Limited English Proficient (LEP) Individuals and Effective Communication for Individuals with Disabilities During the States' Unwinding of the Medicaid Continuous Enrollment Condition (Apr. 4, 2023), *https://www.hhs.gov/sites/default/files/medicaid-unwinding-letter.pdf.*

stating this would help improve health equity by ensuring that vulnerable populations maintain their Medicaid coverage. Commenters stated that more frequent renewals increase the number of eligible individuals who lose coverage, while conducting eligibility determinations only once every 12 months will reduce churn and provide non-MAGI beneficiaries with greater stability of coverage. While generally supporting the proposal requiring States to conduct regularly scheduled renewals once, and only once, every 12 months, some commenters requested that the Medically Needy population be excluded from this requirement, because the determination of medical expenses that individuals must incur to establish eligibility must be completed more frequently than once every 12 months.

Response: We appreciate the support for this proposed provision. With respect to the request to exempt medically needy beneficiaries from the limitation on renewals to once every 12 months, we note that a State's medically needy budget period and its renewal schedule do not need to be identical. Under § 435.831(a)(1) of the current regulations, States can adopt a budget period between 1 and 6 months. While States need to verify that individuals have met their spenddown every budget period, they do not need to recalculate their spenddown amount every budget period. The spenddown amount will remain constant until the next renewal unless the individual experiences a change in circumstances that might impact their eligibility. For example, a number of States currently limit renewals for their medically needy populations to once every 12 months, regardless of the length of their budget periods. Likewise, we do not know of any States with a 1-month budget period that conduct a full renewal of eligibility for medically needy beneficiaries every month on the same timeline. Therefore, we do not agree that alignment of regular renewals with the budget period is needed, and we are finalizing the requirement at § 435.916(a)(1) as proposed to permit renewals no more frequently than once every 12 months, with the limited exception discussed later in this final rule.

Comment: A number of commenters supported our proposal at §§ 435.907(d)(2) and 435.916(b)(2)(iv) to eliminate in-person interviews for non-MAGI eligible enrollees. They noted that the proposed change would reduce burden on enrollees, especially those with difficulties with activities of daily living, disabilities, behavioral health issues, and any individuals who are hampered by work schedules, inability to obtain childcare, or lack of transportation.

Response: We agree and appreciate the support for this proposed provision. We believe in-person interview requirements create a barrier for eligible individuals to obtain and maintain coverage without yielding any additional information that cannot be obtained through other modalities, particularly for individuals without access to reliable transportation or a consistent schedule.

Comment: A few commenters requested that CMS extend the proposed prohibition on mandatory in-person interviews at §§ 435.907(d) and 435.916(b) to include all interviews, including phone and video interviews, for both non-MAGI and MAGI beneficiaries, because they create significant barriers. These commenters explain that a phone or video interview is no more necessary than an in-person interview. One commenter explained that, in States that currently require interviews as a condition of eligibility, individuals are allowed to complete the interview by phone, so unless the interview requirement is eliminated completely, this proposed change is unlikely to reduce procedural denials based on failure to complete the interview.

Response: We appreciate and share the commenters' desire to remove unnecessary barriers to retaining enrollment for non-MAGI beneficiaries. We are finalizing our proposal to prohibit in-person interviews for non-MAGI beneficiaries as proposed. If any States use phone or video interviews to fulfill the requirement of an in-person interview, these interview types are also prohibited.

Comment: One commenter stated their support for requiring that States provide non-MAGI beneficiaries with prepopulated renewal forms at § 435.916(b)(2)(i)(A), which should assist many individuals who have difficulties with eyesight, cognition, and language barriers that interfere with understanding complex instructions. One commenter supported CMS requiring a prepopulated form because it will reduce the burden on people with disabilities, their families, and service providers and will also reduce burden on legal services and other assisters who assist individuals seeking coverage across the different Medicaid eligibility pathways. Another commenter supported CMS requiring States to give beneficiaries a prepopulated renewal form, which would make it much easier for beneficiaries to complete the forms and reduce risk of errors. Another commenter proposed that CMS should make the proposal to require a prepopulated renewal form for non-MAGI beneficiaries a State option. This commenter stated that if CMS were to finalize the requirement as proposed, States would need funding to support system changes as well as significant technical assistance with implementation.

Response: We appreciate the support and agree that using a prepopulated form will reduce burden and the risk of errors both when a beneficiary completes the form and when the State enters information into its system. We understand that system updates needed to implement the form will take time and resources. However, we find this to be a reasonable investment given the reduction in both beneficiary and State burden that will result, as beneficiaries will no longer be required to gather and resubmit, and State workers will not need to re-enter, information already available to the State or already in the system. Again, we remind States that enhanced FFP is available, in accordance with § 433.112(b)(14), at a 90 percent matching rate for the design, development, or installation of improvements to Medicaid eligibility determination systems, in accordance with applicable Federal requirements. Enhanced FFP is also available at a 75 percent matching rate, in accordance with § 433.116, for operations of such systems, in accordance with applicable Federal requirements. Receipt of these enhanced funds is conditioned upon States meeting a series of standards and conditions to ensure investments are efficient and effective.

For the reasons noted, we are finalizing § 435.916(b)(2)(i)(A), which requires States to send a prepopulated renewal form when the State needs additional information to renew a beneficiary's eligibility, as proposed.

Comment: One commenter indicated their support for the determination of Medicaid eligibility to be done through various State applications, including the use of the Supplemental Nutrition Assistance Program (SNAP) benefits assessment, to automatically supplant the renewal process and use that data to determine eligibility renewals.

Response: Although we support the development of integrated applications that enable individuals to apply for multiple programs using a single application, we did not propose to permit States to use the applications used by SNAP or any other program in lieu of a Medicaid application or renewal form. Accordingly, this comment is outside the scope of this rulemaking. For more information about

States' ability to integrate SNAP and Medicaid applications, see the August 31, 2015, SHO letter (SHO #15–001) ''RE: Policy Options for Using SNAP to Determine Medicaid Eligibility and an Update on Targeted Enrollment Strategies.'' [11]

Comment: Some commenters expressed concern that States with integrated eligibility systems would be challenged to implement the policies proposed at § 435.916(b)(2)(i)(B) and (C), to require that States provide non-MAGI beneficiaries with at least 30 calendar days to return the prepopulated renewal form and other requested information, as well as a 90 calendar day reconsideration period following termination due to failure to return the renewal form or requested information, because these timelines do not align with the time frames for SNAP and Temporary Assistance for Needy Families (TANF). Commenters believe that lack of alignment with these programs could lead to beneficiary confusion and increase the risk of a higher rate of procedural denials. Other commenters encouraged CMS to find a solution to the different timeframes between Medicaid and SNAP for beneficiaries to return required additional information and offer a waiver or other option to States that jointly administer their Medicaid and SNAP programs to adjust this requirement. Lastly, some commenters opposed the proposal to apply the renewal processes at current § 435.916(a)(3) to non-MAGI beneficiaries due to concerns that States with integrated eligibility systems would have trouble implementing a prepopulated renewal form for Medicaid when the same form is used for other programs like SNAP and TANF that use different income counting methodologies.

Response: We acknowledge the important work that many States have undertaken to establish integrated eligibility systems and simplified notices across their health and human service programs, like Medicaid, CHIP, SNAP, and TANF. However, we believe it is equally important to provide the same streamlined renewal processes for all Medicaid beneficiaries, regardless of the financial methodologies used to determine their eligibility. This is particularly important for households with both MAGI and non-MAGI Medicaid beneficiaries, for whom unaligned processes could increase confusion and result in increased procedural terminations.

Further, we have worked with other human service programs, including SNAP, to better understand their requirements and to identify areas for potential alignment. While we recognize the challenges that States face in developing integrated eligibility and enrollment systems serving multiple programs, we do not believe that the processes proposed in § 435.907(c)(4) or § 435.916 of the September 2022 proposed rule increase the challenges States face in aligning their Medicaid and CHIP renewal processes with other human service programs like SNAP. CMS is available to provide technical assistance to States attempting to develop such an integrated system.

Comment: A few commenters urged CMS to consider extending the time period for all beneficiaries to provide requested information at renewal from a minimum of 30 calendar days to 45 or 60 calendar days. Others also supported potentially increasing the timeframe available to non-MAGI beneficiaries to 75 calendar days. These commenters were concerned that 30 calendar days may not be enough time for current beneficiaries to gather requested information. Commenters were concerned that while individuals who may not respond within the 30 days will have a reconsideration period after termination, they may still experience gaps in coverage that could potentially be avoided if they had more time initially to provide requested information.

Response: We appreciate commenters' concerns to ensure that current beneficiaries have sufficient time to respond and prevent interruptions to coverage. We note that States continue to retain the ability to allow additional time beyond the required minimum of 30 calendar days for both MAGI and non-MAGI beneficiaries. However, our goal is to align requirements for non-MAGI beneficiaries with those currently applicable for MAGI beneficiaries. We believe the benefits of aligning the renewal requirements for all beneficiaries will operationally simplify the process for States and reduce confusion for beneficiaries. We did not propose any changes to the amount of time required for MAGI beneficiaries to return requested information at renewal at § 435.916(a)(3)(i)(B) but may consider extending the minimum timeframe beyond 30 calendar days for both MAGI and non-MAGI beneficiaries in future rulemaking. We are finalizing 30 calendar days for non-MAGI beneficiaries as proposed.

Comment: While most commenters supported requiring a reconsideration period after the date of termination, a few believed that 90 calendar days for the reconsideration period proposed at § 435.916(b)(2)(i)(C) is too long and could lead to increased recoupments from providers. Instead, they suggested 60 calendar days to ensure beneficiaries have adequate time to receive notices and reply as well as to align with the Marketplaces' special enrollment period (SEP) timeframes.

Response: In proposing 90 calendar days for the reconsideration period, our goal was to provide an equitable experience for all Medicaid beneficiaries, regardless of the financial methodologies used to determine their eligibility, and to eliminate the confusion that may result from different renewal timeframes for different household members who are subject to different methodologies. The 90 calendar days for the reconsideration period proposed for non-MAGI beneficiaries would achieve alignment with the current requirement that provides a 90-day reconsideration period for MAGI beneficiaries.

We do not believe that requiring States to provide non-MAGI beneficiaries who have been terminated for procedural reasons with 90 calendar days for the reconsideration period to return their renewal form and any additional documentation needed will have any impact on recoupment from providers. Indeed, because a reconsideration period increases the number of terminated individuals who successfully reenroll in the program relatively quickly, provider reimbursement is likely to benefit.

The reconsideration period after termination should not be confused with the amount of time individuals have to return a renewal form and other needed documentation before their eligibility period expires, which we proposed to be 30 days at § 435.916(b)(2)(i)(B). We appreciate the suggestion to align with the Marketplace, but in this case, we believe the Medicaid standard is preferable. We do not believe that lack of alignment between Medicaid's reconsideration period and the 60-day Special Enrollment Period (SEP) poses a significant problem for coordination between these programs and are not aware of any challenges that the current 90 calendar days for the reconsideration period for MAGI beneficiaries poses for coordination between the Marketplace and Medicaid.

After considering these comments, we are finalizing §§ 435.907(c)(4) and (d) and 435.916 as proposed. We note that

[11] *https://www.medicaid.gov/sites/default/files/Federal-Policy-Guidance/downloads/SHO-15-001.pdf.*

these changes to eligibility determination processes for non-MAGI populations require States to: conduct renewals no more than once every 12 months; use prepopulated renewal forms; provide a minimum 90-day reconsideration period after termination for failure to return information needed to redetermine eligibility; eliminate mandatory in-person interviews at application and renewal; and limit requests for information on a change in circumstances to information on the change, operate independently from the other provisions of this final rule. Because each of these changes individually serves to reduce the burden on applicants and beneficiaries associated with eligibility determinations, we believe they also operate independently from one another.

2. Acting on Changes in Circumstances Timeframes and Protections (§§ 435.916, 435.919, and 457.344)

In the September 2022 proposed rule, we proposed to add a new § 435.919 to clearly define States' responsibility to act on changes in circumstances. We proposed to revise and redesignate § 435.916(c) (related to procedures for reporting changes) and (d) (related to promptly acting on changes in circumstances and scope of redeterminations based on changes in circumstances) of the current regulations to new § 435.919. In addition to modifying these existing requirements, we proposed to describe the steps that States must take when reevaluating eligibility based on changes in circumstances reported by beneficiaries and when reevaluating eligibility based on changes in circumstances received from a third-party data source. We also proposed that States must provide beneficiaries with at least 30 calendar days to respond to requests for additional information and 90 calendar days for the reconsideration period during which beneficiaries who failed to provide requested information related to a change in circumstances can still do so and have their eligibility reinstated if eligible. Finally, we modified existing language at § 435.916(d)(2), redesignated to proposed § 435.919(b)(3), to clarify that States must act on anticipated changes at an appropriate time (instead of *the* appropriate time). Generally, these proposed provisions were incorporated into the CHIP regulations at new § 457.344.

We received the following comments on these proposals:

Comment: One commenter requested clarification regarding proposed § 435.919(a) for States ''to ensure that beneficiaries understand the importance of making timely and accurate reports of changes in circumstances that may affect their eligibility'' and CMS' expectations for States to meet these requirements. The commenter expressed concern that States that currently provide information regarding reporting requirements via the rights and responsibilities to which individuals agree when submitting their initial application, and which are repeated in the notice informing individuals of their eligibility, may not provide sufficient notice.

Response: As discussed in section II.B.2. of the September 2022 proposed rule, we proposed redesignating current requirements at § 435.916(c) related to procedures for reporting changes to proposed §§ 435.919(a) and 457.344(a). It was not our intent to apply new requirements about the procedures States must have in place to communicate with Medicaid and CHIP beneficiaries on accurate and timely reporting for changes in circumstances that may affect their eligibility. Providing clear information about this responsibility in the description of the rights and responsibilities provided to applicants and individuals determined eligible for coverage can satisfy this requirement. States continue to have flexibility to communicate this information through other avenues as well.

Comment: We received many comments regarding the proposed processes for acting on changes in circumstances at §§ 435.919(b) and 457.344(b). Although commenters supported the alignment between Medicaid and CHIP when States act on changes in circumstances, commenters generally opposed the proposed approach as being overly prescriptive and complex for State eligibility workers to implement. Some commenters raised concerns that the number of decision points, such as when a request for additional information may be needed and what actions States must take in the different scenarios, would increase the likelihood of errors. Others expressed concerns that the proposed process would increase administrative burden by requiring States to evaluate each reported change to determine whether it might impact eligibility prior to processing the information. Commenters recommended applying a single process to all changes in circumstances rather than differentiating based on the source that reports the change.

Response: We appreciate the feedback from commenters about the potential administrative challenges of implementing §§ 435.919(b) and 457.344(b) as proposed. As discussed in section II.B.2. of the September 2022 proposed rule, our intent in establishing a new section in part 435 (§ 435.919) (and a corresponding new section in part 457 (§ 457.344)) was not to create a set of new requirements that States must follow when they receive information about a change in circumstances. Our intent was to clarify existing requirements to ensure that States act on changes timely and in a manner that protects the coverage of beneficiaries who remain eligible (thereby, reducing unnecessary procedural terminations). Rather than increasing administrative burden by requiring States to establish a host of new actions and decision points within their process for redetermining eligibility based on changes in circumstances, the clear set of required actions described in this final rule is intended to help States to streamline their processes and reduce errors.

We agree with commenters that the structure of proposed § 435.919(b), differentiating between changes reported by a beneficiary and changes reported by a third-party data source, with additional requirements for anticipated changes known to the agency, appears to create varied and potentially conflicting requirements for different types of changes and may cause confusion. Therefore, in this final rule, we revise § 435.919(b) to streamline these requirements and establish a single set of actions that are required when a State receives reliable information about a change in circumstances that may impact a beneficiary's eligibility.

In this final rule, we combined proposed § 435.919(b)(1)(i), requiring the State to evaluate whether a beneficiary-reported change may impact that beneficiary's eligibility, with the requirement proposed at § 435.919(b)(2)(i) that the State evaluate whether the information received from a third-party data source was accurate and if accurate, whether it may impact a beneficiary's eligibility. As such, we are finalizing § 435.919(b) to require States to promptly redetermine eligibility between regularly scheduled renewals, whenever they have obtained or received reliable information about a change in a beneficiary's circumstances that may impact the beneficiary's eligibility for Medicaid, the amount of medical assistance for which the beneficiary is eligible, or the beneficiary's premiums or cost sharing charges. Reliable information includes changes reported by beneficiaries or

their authorized representatives, as well as information obtained from third-party data sources identified in States' verification plans that the State has determined to be accurate.

At § 435.919(b)(1) we are finalizing the requirement (proposed in the same paragraph) that in redetermining eligibility based on a change in circumstances, the agency must complete the redetermination based on available information, whenever possible. If the State does not have all information needed to complete a redetermination, it must request needed information from the beneficiary in accordance with § 435.952(b) and (c).

At § 435.919(b)(2) and (3) of this final rule, we combine the requirements proposed at § 435.919(b)(1)(iii) and (b)(2)(iii), to describe the requirements when a reported change may result in additional medical assistance (including lower premiums and/or cost sharing charges). If the change was reported by the beneficiary, as described at § 435.919(b)(2)(i) of this final rule, prior to furnishing additional medical assistance, the State must verify the change in accordance with its verification plan. However, if the change was obtained from a third-party data source, as described at § 435.919(b)(2)(ii) of this final rule, the State may verify the information with the beneficiary prior to completing the determination. States are not required to verify such changes with the beneficiary. Proposed § 435.919(b)(1)(iii) and (b)(2)(iii) also included a prohibition against terminating the coverage of a beneficiary who fails to respond to a request for information to verify their eligibility for increased medical assistance. This requirement is finalized at § 435.919(b)(3).

We are finalizing, at § 435.919(b)(4), the requirement proposed at § 435.919(b)(2)(ii) when third-party data indicates a change that would adversely impact a beneficiary's eligibility. Prior to taking adverse action based on information from a third-party data source, the State must provide the beneficiary with an opportunity to furnish additional information to verify or dispute the information received. An adverse action, as defined at § 431.201, includes a termination, suspension, or reduction in covered benefits, services, or eligibility, or an increase in premiums or cost sharing charges. At § 435.919(b)(5), we are finalizing the required actions proposed at § 435.919(b)(4), when a State determines that a reported change in circumstances results in an adverse action. These include compliance with the requirements to consider eligibility on other bases, determine potential eligibility for other insurance affordability programs, and provide advance notice and fair hearing rights.

We complete the revisions to § 435.919(b) with a requirement at paragraph (b)(6) regarding anticipated changes. This requirement is finalized as proposed at § 435.919(b)(3), except we added a cross-reference to paragraphs (b)(1) through (5) to clarify that the same steps apply when States are reevaluating a beneficiary's eligibility based on an anticipated changes in circumstances. Lastly, in this final rule, we revise the CHIP regulations at § 457.344 to correspond with the modifications at § 435.919, as discussed previously in this final rule, and ensure continued alignment between Medicaid and CHIP. However, we note that there are some minor differences at § 457.344 to account for Medicaid requirements that do not apply to CHIP, such as considering eligibility on all other bases.

Comment: One commenter sought clarification on what would be considered ''additional medical assistance'' for purposes of acting on changes in circumstances under proposed § 435.919(b). Some commenters also had questions about whether moving individuals between eligibility groups, when the move results in no change to the benefits to which the individual is entitled, should be considered ''additional medical assistance'' when acting on changes in circumstances.

Response: The term ''additional medical assistance'' at § 435.919(b)(2), as well as the term ''additional child or pregnancy-related assistance'' at § 457.344(b)(2), mean any practical change to an individual's coverage that is beneficial to the individual. For example, an individual moving from an eligibility group provided with limited benefits (for example, the eligibility group limited to family planning and related services at § 435.214) to another eligibility group that receives a comprehensive benefit package (for example, the eligibility group for parents and other caretaker relatives at § 435.110) would be considered to be receiving ''additional medical assistance'' because the individual is now entitled to more benefits. Another example would be a reduction or elimination of cost sharing or premiums, applied to a beneficiary who experienced a reduction in income. We also consider movement between eligibility groups that does not result in a practical change in benefits to be included within the term ''additional medical assistance'' for the purposes of meeting the requirements under proposed §§ 435.919(b)(2) and 457.344(b)(2).

Comment: Some commenters had questions about what States should do under proposed § 435.919 when a reported change could result in an individual moving to a different eligibility group, particularly when the movement between eligibility groups may not impact benefits. Commenters sought clarification on whether States should reach out to beneficiaries regarding changes in circumstances that would result in a beneficiary changing eligibility groups and what to do if the beneficiary fails to respond to requests for additional information. One commenter recommended that States be allowed to move the individual between eligibility groups even if the individual does not respond to requests for information.

Response: States are required, as described at §§ 435.919(b) and 457.344(b) of this final rule, to redetermine eligibility whenever they receive information about a change in circumstances that may impact a beneficiary's eligibility. We recognize that some changes in circumstances result in an adverse action, making the beneficiary ineligible or eligible for less medical assistance (that is, fewer benefits or higher cost sharing), some changes in circumstances result in eligibility for additional medical assistance, and other changes in circumstances necessitate a change from one eligibility group to another without impacting the medical assistance available to the beneficiary. In cases where a change in circumstances has no practical impact on a beneficiary's coverage, for example, eligibility for a different group with no change in coverage, the requirements described at §§ 435.919(b)(2) and 457.344(b)(2) of this final rule apply. The State must attempt to act on the change, if reported by the beneficiary, consistent with applicable verification requirements (§§ 435.940 through 435.960 for Medicaid and § 457.380 for CHIP) and the State's verification plan. If the State is able to verify the information, then the beneficiary would be moved to the new group. If the change was provided by a third-party data source, the State may verify the change with the beneficiary. If the State elects to verify information with the beneficiary and the beneficiary confirms that the change is correct, then the beneficiary would also be moved to the new group. However, if the State is unable to verify the information with the beneficiary, the individual must remain in their current eligibility group; consistent with

§§ 435.919(b)(3) and 457.344(b)(3), the individual's eligibility may not be terminated for failure to respond to a request for additional information.

Comment: Some commenters noted a lack of clarity in the proposed rule about when information from a third-party data source would be considered ''reliable'' consistent with proposed § 435.919(b)(2)(i) and encouraged CMS to provide additional guidance on the data sources or types of information that could be considered reliable.

Response: We expect States to make eligibility determinations for Medicaid and CHIP based on the most current and reliable information available to them. Information available in a beneficiary's case record or other more recent information available to the State, including information from electronic data sources or other agencies such as SNAP, would be considered reliable for this purpose. For example, if a State receives information from a third-party data source, such as Equifax, indicating a change in a beneficiary's income, but that information is older than other income information the State received from another agency, such as TANF, the State should not act on the older information from the third-party data source. See the December 2020 Center for Medicaid and CHIP Services (CMCS) Informational Bulletin ''Medicaid and CHIP Renewal Requirements'' for additional information.[12]

Comment: One commenter expressed concern about how the proposed changes in circumstances requirements would interact with the reasonable opportunity period for individuals otherwise eligible for full Medicaid or CHIP benefits who do not respond to requests for additional information to resolve discrepancies about their declared satisfactory U.S. citizenship or satisfactory immigration status. The commenter provided an example when an individual is receiving limited Medicaid benefits for the treatment of an emergency medical condition who later declares to have a change in immigration status which makes them eligible for full Medicaid benefits.

Response: Sections 1137(d)(3), 1902(a)(46)(B), 1902(ee) and 2105(c)(9) of the Act require that States verify that an individual is a U.S. citizen or has a satisfactory immigration status when determining eligibility for Medicaid and CHIP. If States are unable to verify a beneficiary's U.S citizenship or satisfactory immigration status or a reported change in such status, existing regulations at §§ 435.956(b) and 457.380(b)(1) require States to provide individuals with a reasonable opportunity period to verify such information. During this reasonable opportunity period, States must provide the individual with benefits that they would otherwise be eligible for consistent with §§ 435.956(a)(5)(ii) and 457.380(b)(1)(ii).

In this scenario, in which an individual is eligible only for the treatment of an emergency medical condition in Medicaid due to not having U.S. citizenship or satisfactory immigration status, but the individual reports a change by declaring to be a U.S. citizen, U.S. national, or having satisfactory immigration status, we would expect the State to attempt to verify the information consistent with § 435.919(b)(1), which cites to existing citizenship/immigration verification requirements at § 435.956. If the State is unable to verify the declared U.S. citizenship or satisfactory immigration status promptly, the State must provide the individual with a reasonable opportunity period and must continue efforts to complete the verification of the individual's citizenship or satisfactory immigration status, or request documentation if necessary. Once the reasonable opportunity period is provided, the State may begin to furnish full Medicaid benefits provided the individual is otherwise eligible (that is, the individual satisfies all other eligibility criteria). At that time, such State would be expected to follow the reasonable opportunity requirements at § 435.956(b), including providing proper notice to the individual about when the reasonable opportunity period begins and ends. If, by the end of the reasonable opportunity period, the individual's U.S. citizenship or satisfactory immigration status has not been verified, States would be expected to terminate the individual's full Medicaid benefits within 30 days. At that point coverage would revert back to limited coverage for the treatment of an emergency medical condition as described in section 1903(v)(2)(A) of the Act.

Comment: Many commenters did not support proposed § 435.919(b)(2)(iii), which would allow States to verify information received from a third-party data source with the beneficiary before providing additional medical assistance or lowering cost sharing. Commenters indicated that currently at renewal States are required to act on reliable information from a third-party data source that results in eligibility for additional medical assistance or lower cost sharing without verifying the information with the individual. The commenters believe that States similarly should be required to act on reliable information received from a third-party data source that indicates a change in circumstances resulting in eligibility for additional medical assistance or lower cost sharing without verifying the change with the beneficiary.

Response: We appreciate commenters' concerns. The intent of our proposal was to codify existing policy. States currently have the option to act on information obtained from a third-party data source without verifying the information with the individual prior to providing the additional benefits. Because we did not propose to change this policy, we are finalizing this policy as proposed but will take the comments into consideration in the future. At §§ 435.919(b)(2)(ii) and 457.344(b)(2)(ii), we are finalizing the option for States to confirm third-party information with a beneficiary, prior to providing additional medical assistance or reducing premiums and/or cost sharing. However, we retain the requirement at §§ 435.919(b)(3) and 457.344(b)(3) that States may not terminate a beneficiary's eligibility if they do not respond to a request for additional information to verify such third-party information.

Comment: Some commenters supported the requirement at § 435.919(b)(1)(iv) to require States to send a notice to a beneficiary who reports a change that does not ultimately impact their eligibility. However, many other commenters believe that requiring a notice in this situation would be administratively burdensome for States and could create confusion for beneficiaries. Commenters were particularly concerned about the potential for confusion following the end of the continuous enrollment condition.

Response: While we believe that communication with beneficiaries is critical, we appreciate commenters' concerns that this requirement both imposes additional burden on States and could cause unnecessary confusion for beneficiaries. Therefore, we are not finalizing the requirement at proposed §§ 435.919(b)(1)(iv) and 457.344(b)(1)(iv) that States must send a notice to beneficiaries that the information they reported was received but did not impact their eligibility. However, we encourage States to develop clear notices, at their option, to acknowledge such reported changes and assure beneficiaries that there is no impact on their eligibility or coverage.

Comment: Many commenters supported the proposed requirement at

[12] See December 2020 CMCS Informational Bulletin ''Medicaid and Children's Health Insurance Program (CHIP) Renewal Requirements.'' Available at *https://www.medicaid.gov/federal-policy-guidance/downloads/cib120420.pdf.*

§§ 435.919(b)(1)(iii) and (b)(2)(iii) that would prohibit a State from disenrolling a beneficiary who does not respond to requests for additional information to verify a change in circumstance that would result in a beneficial change, such as more medical assistance or lower cost sharing.

Response: We appreciate commenters' support of our proposal to keep individuals enrolled in Medicaid and CHIP when they do not respond to requests that would potentially result in more beneficial coverage, such as additional benefits or lower cost sharing. We are finalizing § 435.919(b)(1)(iii) and (b)(2)(iii), redesignated at § 435.919(b)(3) for Medicaid, as proposed. In addition, we are finalizing the corresponding CHIP provisions, proposed at §§ 457.344(b)(1)(iii) and (b)(2)(iii), and redesignated here as § 457.344(b)(3) of this final rule, as proposed.

Comment: Many commenters were supportive of proposed § 435.919(c)(1) to require that States provide beneficiaries with at least 30 calendar days to respond to requests for additional information related to a change in circumstances, which would align with the current policy to provide MAGI-based beneficiaries with at least 30 days to return a renewal form. Commenters noted that beneficiaries often have significant difficulty in responding to requests for additional information, particularly when documentation is needed. However, some commenters expressed concern that this requirement would have a significant fiscal impact on States. These commenters noted that the policy would require States to maintain coverage for at least two additional months for individuals who may ultimately be determined ineligible for Medicaid. They stated that this additional time could have a considerable fiscal impact on States, especially in the case of beneficiaries enrolled in a managed care delivery system. Commenters also sought clarification from CMS on how proposed § 435.919(c)(1) interacts with the minimum 10-day advance notice currently required prior to taking an adverse action (§ 431.211).

Response: We appreciate commenters' support for alignment of beneficiary response timeframes at renewal and following a change in circumstances for Medicaid and CHIP. We also appreciate commenters' concerns about maintaining coverage for individuals who may be determined ineligible, and we recognize the fiscal constraints that may incentivize speedy disenrollment of potentially ineligible beneficiaries. However, the benefits of providing individuals with adequate time to collect needed information and respond to a request from their State Medicaid or CHIP agency are clear. As discussed earlier, maintaining enrollment and reducing enrollment churn has the potential to improve beneficiary health; reduce the need for high-cost interventions that can result from delayed care; reduce administrative burdens for individuals, health care providers, and State agencies; improve the ability of beneficiaries and their providers to form lasting relationships; and protect beneficiaries from medical debt and providers from non-payment.

Current § 435.930(b) requires States to continue to furnish Medicaid to beneficiaries until they are found to be ineligible, and States cannot complete a finding of ineligibility without giving the beneficiary an adequate opportunity to explain, disprove, or verify information received from a third party. We believe a minimum 30-day response period provides adequate time for beneficiaries to respond and does not create undue burden on States. In addition, we agree with comments that support aligning policies between renewals and changes in circumstances to make administration simpler for States and reduce beneficiary confusion in terms of the expectations regarding their response to requests for additional information. As such, we are finalizing the 30-day response period at § 435.919(c)(1) for Medicaid and § 457.344(c)(1) for CHIP as proposed.

We appreciate the question about how the requirement at § 431.211, to provide a minimum of 10 days advance notice prior to taking an adverse action, fits together with the 30-day response period finalized in this rule, when a beneficiary's eligibility must be terminated for failure to provide the requested information and will provide additional guidance on this question in the future.

Comment: While many commenters viewed requiring a minimum timeframe for beneficiaries to respond to requests for additional information as a helpful way to combat churn, one commenter suggested that approach was not effective. Instead, this commenter highlighted the importance of providing States with additional flexibility to be able to gradually end Medicaid benefits for individuals who may appear to be no longer eligible rather than applying additional rules to States.

Response: This comment is beyond the scope of this rulemaking. We note that medical assistance can only be provided to individuals who meet all eligibility requirements under a State plan or demonstration project authorized under section 1115 of the Act. While States are required to continue to furnish benefits until an individual has been found ineligible, consistent with § 435.930 of the current regulations, Federal financial participation is not available for individuals determined to no longer meet eligibility criteria.

Comment: Commenters were also generally supportive of the requirement at proposed § 435.919(c)(1)(ii) that would require States to allow beneficiaries to respond to requests for information through any modality specified in § 435.907(a), but a few commenters expressed concerns at being able to ensure that all methods were available given that changes in circumstances happen frequently and that it would be challenging for States to track all modalities of submission.

Response: We appreciate commenters' raising their concerns about challenges States may face when developing procedures for beneficiaries to report changes or provide additional information regarding changes in circumstances consistent with §§ 435.919 and 457.344. However, we note that these are not policy changes. They simply codify existing policies. States are currently required to allow beneficiaries to report information about changes through all modalities that are also available to individuals submitting a new application under existing § 435.916(c), which is redesignated at § 435.919(a) for Medicaid and § 457.344(a) for CHIP in this final rule. Therefore, we are finalizing §§ 435.919(c)(1)(ii) and 457.344(c)(1)(ii) as proposed.

Comment: The majority of commenters supported the redesignation of existing requirements at § 435.916(d), which limit the scope of requests for additional information to only those related to the reported change in circumstance, to new § 435.919(e).

Response: We appreciate commenters' support of our proposal. We are finalizing § 435.919(e) and the corresponding CHIP regulation at § 457.344(e) as proposed.

Comment: Similar to the existing 90-day reconsideration period at application, many commenters expressed support for providing a reconsideration period for individuals who return requested information relating to a change in circumstances after their coverage has been terminated. Many commenters noted that this policy would reduce the burden of processing new applications and simplify implementation by applying a

consistent policy for renewals and changes in circumstances. However, some commenters urged CMS to consider removing the language in proposed § 435.919(d) that limited the requirement to provide a 90-day reconsideration period to only individuals who are terminated for procedural reasons (that is, because they did not respond to the State's request for additional information). Commenters stated that providing a reconsideration period for individuals whose coverage is terminated for cause, such as individuals with fluctuating income whose coverage is terminated when their income increases only to become eligible again shortly thereafter, could be very beneficial and prevent unnecessary churn.

Response: We appreciate commenters' general support of our proposal. We agree that aligning policies between renewals and changes in circumstances simplifies requirements for States. We appreciate commenters' suggestions to remove the language in proposed § 435.919(d) that limits the proposed 90-day reconsideration period to only terminations as a result of not providing requested information. Since we did not propose expanding the scope of the reconsideration period in this way, we are not including this as a requirement in this final rule. We may consider the suggestion in future rulemaking and encourage States to consider existing flexibilities available to protect individuals whose coverage may be terminated as they experience frequent changes in circumstances. In the specific scenario raised by the commenter, we note that States have the flexibility under §§ 435.603(h)(3) and 457.315(a) to take into account reasonably predictable changes in income when determining current monthly income, and that this can help reduce churn for individuals whose income fluctuates over the course of the year.

Comment: One commenter appeared to raise concerns about the current requirement that States must obtain a signature for any additional information received at renewal. The commenter noted that it may not always be possible to obtain a signature depending on how information is submitted and that it is very common for beneficiaries to forget to sign when they return additional information at renewal. Second, the commenter stated that if a similar policy is applied to reconsideration periods as a result of a change in circumstance, States will likely face the same challenges as they currently do in obtaining signatures at renewal. Because of those challenges, they recommended removing the requirement at § 435.919(d)(2) that States be required to obtain a signature from the beneficiary to confirm the accuracy of any information provided to redetermine eligibility during a reconsideration period following a change in circumstances. They believe allowing this flexibility will reduce administrative burden.

Response: We appreciate the commenter's concerns about some of the challenges States may face when attempting to obtain the necessary signatures during renewal. As a best practice, we encourage States to continue to reach out to beneficiaries that are missing information on a returned renewal form. We believe this additional outreach is particularly important when individuals have provided all of the information necessary to complete an eligibility determination but have forgotten to include their signature.

The intent of proposed §§ 435.919(d)(2) and 457.344(d)(2) was to align the policies for the reconsideration period specific to a change in circumstance with the existing policies for a reconsideration period provided at renewal. Currently, if a beneficiary provides additional information during the 90-day reconsideration period at renewal, States must treat the information as a new application as described at §§ 435.916(b)(2)(iii) and 457.343. As such under § 435.907(f), the individual must provide a signature to be able to consent to enrollment (or reenrollment) in Medicaid and CHIP and verify the accuracy of the additional information or provide correct information, consistent with section 1137(d)(1)(A) of the Act. In order to continue to meet these requirements, we are finalizing §§ 435.916(d)(2) and 457.344(d)(2) with references to § 435.907(f) as proposed. Additionally, we note that treating additional information received during the 90-day reconsideration period as a new application entitles eligible individuals to up to 3 months of retroactive coverage under Medicaid consistent with § 435.915.

Comment: Some commenters expressed concern that it would not be possible for States with an integrated eligibility system that also determines eligibility for other programs, such as SNAP and TANF, to comply with protections for Medicaid beneficiaries proposed at § 435.919(c)(1), requiring at least 30 calendar days for beneficiaries to respond to requests for information related to a change in circumstances, because these protections are not required under the other programs.

Response: We acknowledge the important work that many States have undertaken to establish integrated eligibility systems and simplified notices across their health and human service programs, like Medicaid, CHIP, SNAP, and TANF. However, the eligibility requirements and processes between those programs continue to differ, so we believe that providing a minimum beneficiary response period to Medicaid and CHIP beneficiaries is appropriate to ensure that individuals who are actually eligible have time to provide the necessary information and reduce the likelihood of churn within Medicaid and CHIP.

We have worked with other human service programs, including SNAP, to identify areas for potential alignment. While we recognize the challenges that States face in developing integrated eligibility and enrollment systems serving multiple programs, we do not believe that the processes proposed in §§ 435.919(c)(1) and 457.344(c)(1) of the September 2022 proposed rule increase the challenge States face in aligning their Medicaid and CHIP beneficiary response timeframes with other human service programs like SNAP. We are available to provide technical assistance to States attempting to develop such an integrated system.

Comment: Some commenters sought clarification on when States could or could not act on information if individuals did not respond to requests for additional information.

Response: Generally, the intent of proposed §§ 435.919 and 457.344 was to outline in more detail the existing requirements States must follow under § 435.952 when considering information received by the State and when additional information may be requested from the beneficiary. For example, proposed §§ 435.919(b)(2)(ii) and 457.344(b)(2)(ii), redesignated at §§ 435.919(b)(4) and 457.344(b)(4) of this final rule respectively, require States to provide individuals with the opportunity to dispute third-party information prior to taking an adverse action, such as terminating a beneficiary's coverage or their benefits; this is a current requirement at § 435.952(d) for Medicaid and also applies to CHIP as referenced at § 457.380.

However, in addition to the existing requirements under §§ 435.952 and 457.380, we proposed to clarify at § 435.919(b)(1)(iii) and (b)(2)(iii), redesignated at § 435.919(b)(3) of this final rule, that States would not be permitted to terminate a beneficiary's existing coverage if they do not respond to the State's request for additional

information about a change in circumstances (either from the beneficiary or a third party data source) that may make the individual eligible for additional medical assistance or lower premiums or cost sharing charges. We proposed the same requirement for CHIP at § 457.344(b)(1)(iii) and (b)(2)(iii), which we redesignate at § 457.344(b)(3) in this final rule. We believe it is important to affirm this protection in the regulations to ensure that individuals who otherwise remain eligible for Medicaid or CHIP retain their current level of benefits, even if they may have been eligible for additional coverage if they had responded to the State's request.

After considering the comments regarding requirements for acting on changes in circumstances, we are finalizing §§ 435.919 and 457.344, as well as the changes proposed to § 435.916 with the modifications discussed. We note that because the effect of these changes is specific to the steps States are required to take to process changes in circumstances, including processing timeframes, the a minimum number of days States must provide for beneficiaries to return information to verify eligibility, and the reconsideration period (without requiring a new application) for beneficiaries who return needed information after being terminated for failure to respond, they operate independently from the other provisions of this final rule. Because each of these changes individually serves to protect beneficiaries during eligibility determinations based on changes in circumstances, we believe they also operate independently from one another.

3. Timely Determination and Redetermination of Eligibility (§§ 435.907, 435.912, 457.340(d), and 457.1170)

Current requirements at § 435.912 related to the timely determination of eligibility, including the maximum time period in which individuals are entitled to a determination of eligibility, exceptions to timeliness requirements, and considerations for States in establishing performance standards, only reference applications, although certain provisions also apply at renewal and when a beneficiary experiences a change in circumstances. We proposed changes to § 435.912 to ensure that States complete initial determinations and redeterminations of eligibility within a reasonable timeframe at application, at regular renewals, and following changes in circumstances. We also proposed to add a new paragraph at § 435.907(d)(1), requiring that if a State is unable to determine an applicant's eligibility based on information provided on the application and verified through electronic data sources and it must obtain additional information from the applicant, the State must provide the applicant with a reasonable period of time to furnish the information.

At § 435.912(b), we proposed to require that States include renewals and changes in circumstances within the performance and timeliness standards described in their State plans. Additionally, we proposed at § 435.912(c)(1) to clarify the actions that begin and end the period of time that is considered under a State's timeliness standards at application, and to specify the actions that begin and end the period of time that is considered under a State's timeliness standards at renewal and changes in circumstances. Proposed § 435.912(c)(2) expands the criteria that States need to consider when developing their performance and timeliness standards. We also proposed a new requirement at § 435.912(g)(3) that prohibits States from using the timeliness standards to delay terminating a beneficiary's coverage or taking other adverse actions. Finally, we proposed standards to specify the maximum amount of time States may take to complete renewals and redeterminations based on changes in circumstances (proposed § 435.912(c)(4) through (6)).

The changes to §§ 435.907(d) and 435.912 apply equally to CHIP through existing cross-references at §§ 457.330 and 457.340(d)(1), respectively. We proposed minor changes to § 457.340(d) to clarify when certain Medicaid requirements were not applicable to CHIP when States consider eligibility on other bases. We also modified the title of § 457.340(d) to include a reference to timely redeterminations of CHIP eligibility. We are finalizing all changes proposed at §§ 435.907(d), 435.912, and 457.340(d), except as described in the following discussions. Additionally, we note that we revised the references to Medicaid requirements at § 457.340(d)(1)(i), which were redesignated as § 435.912(c)(4)(ii), (c)(5)(iii), and (c)(6)(ii) in this final rule.

For reference, Table 1 provides an overview of the timeframes for (1) applicants or beneficiaries to provide additional information, (2) States to complete a timely determination, and (3) individuals to submit information for reconsideration at application, when a change in circumstances occurs, and at renewal. The information provided in Table 1 is offered for ease of reference but does not contain in full detail the information needed to understand the application of the regulations summarized within. Additional information on the specific changes illustrated in Table 1 can either be found in the discussion that follows or in sections II.B.1. and II.B.2. of this final rule. Readers should refer to the regulation text and to the text discussion in this preamble to understand the requirements summarized in Table 1.

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TABLE 1: Enrollment-related Timeframes in this Final Rule

	Minimum Period for Individual to Provide Additional Information	**Maximum Period for State to Complete Timely Determination**	**Minimum Period for Individual to Submit Information for Reconsideration**
Application	A reasonable period of at least 15 calendar days §§ 435.907(d)(1)(i); 457.330	● 90 calendar days for applications based on disability ● 45 calendar days for all other applications §§ 435.912(c)(3)(i) and (ii); 457.340(d)(1)	90 calendar days §§ 435.907(d)(1)(iii); 457.330
Change in Circumstances – Reported Change	30 calendar days §§ 435.919(c)(1)(i); 457.344(c)(1)(i)	● End of month that occurs 30 calendar days following report of change, or ● End of month that occurs 60 calendar days following report of change, if additional information needed §§ 435.912(c)(5)(i), (ii), and (iii)*; 457.340(d)(1) introductory text and (d)(1)(i)	90 calendar days §§ 435.919(d); 457.344(d)
Change in Circumstances – Anticipated Change	30 calendar days §§ 435.919(c)(1)(i); 457.344(c)(1)(i)	● End of month in which anticipated change occurs, or ● End of month following anticipated change, if all needed information submitted ***less than*** 30 calendar days before change §§ 435.912(c)(6)(i) and (ii)*; 457.340(d)(1) and (d)(1)(i)	90 calendar days §§ 435.919(d); 457.344(d)
Renewal	30 calendar days §§ 435.916(b)(2)(i)(B); 457.343	● End of eligibility period, or ● End of month following end of eligibility period, if all needed information submitted with ***less than*** 30 calendar days in eligibility period §§ 435.912(c)(4)(i) and (ii)*; 457.340(d)(1) introductory text and (d)(1)(i)	90 calendar days §§ 435.916(b)(2)(iii); 457.343

*If Medicaid eligibility must be newly determined on another basis at renewal or following a change in circumstances, the clock for a timely redetermination of eligibility on another basis begins again on the date the individual is found ineligible on the current basis, and the State must redetermine eligibility within 90 calendar days for determinations based on disability and 45 calendar days for determinations on all other bases.

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a. At Application

Current § 435.912(c)(3) requires States to determine eligibility within 90 calendar days for new applicants whose eligibility is being determined on the basis of disability and within 45 calendar days for all other applicants. We did not propose any changes to this requirement. However, we did propose to establish a minimum timeframe for applicants to provide additional information when needed to determine eligibility. Specifically, we proposed new language at § 435.907(d)(1)(i) that would require the State to provide the applicant with no less than 30 calendar days to respond to a request for additional information when eligibility is being considered on the basis of a disability, and no less than 15 calendar days to respond when eligibility is being considered on all other bases. We proposed at § 435.907(d)(1)(ii) to require that States accept additional information through any of the modes by which an application may be submitted. We also proposed that when a notice of ineligibility is sent for failure to respond, States must provide a reconsideration period of at least 30 calendar days, during which the State

would be required to accept requested information and reconsider the individual's eligibility without requiring a new application (proposed § 435.907(d)(1)(iii)(A)), similar to the minimum 90-day reconsideration currently required at § 435.916(a)(3) for individuals terminated at a periodic renewal for failure to return a renewal form or other information needed to renew their eligibility. When a reconsideration period is applied, we proposed at § 435.907(d)(1)(iii)(B) that the 45 calendar-day clock for completing an eligibility determination timely as described at § 435.912(c)(3) (or 90 calendar days for a determination based on disability) would restart on the date the requested information is submitted. In addition, at proposed § 435.907(d)(1)(iii)(C), the effective date of coverage for individuals determined eligible would be based upon the original application date (that is, the date the application was submitted or the first day of the month of submission, in accordance with the State's election).

We received the following comments related to timely determinations at application:

Comment: While many commenters agreed that it was important to provide additional time to individuals who may need to provide documentation for their disability, they were concerned that applying different timeframes—30 calendar days for those whose eligibility is being determined on the basis of disability (proposed § 435.912(d)(1)(i)(A)) and 15 calendar days for those being determined eligible on all other bases (proposed § 435.912(d)(1)(i)(B))—would create confusion about what response deadline was applicable to a specific applicant. Commenters sought clarification about whether the additional time under proposed § 435.912(d)(1)(i)(B) was available only to individuals being considered for categorical eligibility based on disability or available to any applicant with a disability.

Commenters also raised concerns regarding the operational and administrative burden of applying two separate timeframes for applicants. They explained that different timeframes may be particularly challenging when multiple household members are included on a single application and only one is applying on the basis of disability, or when an individual applicant is being considered for eligibility in both a disability-related and non-disability-related eligibility group. In addition, several commenters expressed concerns that States with integrated eligibility systems, which may include SNAP, TANF, and other State-specific programs, would not be able to provide the same timeframes for applicants to provide additional information needed across programs. For example, if additional income information was needed to verify financial eligibility for both Medicaid and SNAP, SNAP requires States to give households at least 10 days for the individual to return the information, while the Medicaid agency would be required to provide more time. Commenters expressed concern that different deadlines would add complexity and confuse applicants who may be receiving requests for the same information from each program with different timeframes to respond, and both requests may be included within the same notice or separate notices sent from each program.

Some commenters recommended providing additional response time to other groups of applicants, such as individuals who are subject to an asset test or who are required to provide a level of care determination. Other commenters also suggested that for individuals who need language assistance or are experiencing homelessness, 15 calendar days was not sufficient.

Many commenters agreed that 15 calendar days would be sufficient for the majority of applicants, with some commenters citing CMS' September 2022 Application Processing Time Snapshot report that indicates the vast majority of MAGI applications are completed within either the first 24 hours or within days of receipt. However, other commenters did not agree with that timeframe and provided a range of suggestions for minimum response times between 15 to 60 calendar days.

Some commenters did not support the establishment of specific timeframes for any applicants and instead recommended that we continue to provide flexibility for States to set their own timeframes that best meet the needs of specific types of applicants and/or are appropriate for the type of information being requested. Other commenters opposed a 30-calendar day minimum timeframe for applicants to respond to requests for additional information because it would be challenging for States to determine eligibility timely for non-disability applications (within 45 calendar days) while others asked for clarity regarding the interaction between the minimum beneficiary response period and the maximum timeframe for a timely eligibility determination.

In section II.B.3. of the preamble to the September 2022 proposed rule, we requested comment on an alternative option providing a 30-calendar day response period with a new exception to the timeliness standard. The exception would provide States with up to 15 additional calendar days if needed to process information provided by an applicant at or near the end of the applicant's 30-day response period. Some commenters supported a new exception to the timeliness standard to ensure that both applicants and States had sufficient time in the application process; other commenters were concerned that adding a new exception provided States with too much time that would result in additional delays for otherwise eligible applicants to be determined eligible for coverage and obtain access to needed care, because many States already struggle to meet the current timeliness standards. Some commenters also were concerned that restarting the clock for completing a timely determination of eligibility during the reconsideration period, as proposed at § 435.907(d)(1)(iii)(B), provided too much time for States.

Response: We appreciate commenters' support for maximizing response timeframes to ensure that applicants have sufficient time to respond to requests for additional information, especially when information about disability, assets, or level of care may be needed. However, we also understand commenters' concerns about States' ability to meet application timeliness standards and the need for continued flexibility to address different types of situations. We agree with commenters that requiring two separate timeframes for disability-related and non-disability-related application types may be administratively burdensome and could create confusion for both applicants and eligibility workers, depending on how they are implemented. In States with integrated eligibility systems, a third timeframe could also be needed if the Medicaid timeframes cannot align with other programs like SNAP. At the same time, we remain concerned that requiring a single, minimum of 30 calendar days for all applicants would make it challenging for States to process non-disability-related applications timely (within 45 days). In order to balance these opposing concerns, we are eliminating the different standards at proposed § 435.907(d)(1)(i)(A) and (B) and finalizing a single minimum standard for all applicants. As described at § 435.907(d)(1)(i) of this final rule, States will be required to provide all applicants with a reasonable amount of time that is no less than 15 calendar days to respond to any request for

additional information needed to determine their eligibility at application. This flexibility will permit States to elect to create a single minimum timeframe for all requests for information at application, including a 15 or 30 calendar day timeframe, that provides the best balance for a State's specific circumstances. Alternatively, a State may tailor the timeframes at application to reasonable periods (no less than 15 calendar days) depending on the circumstances and may vary the timeframes depending on the circumstances of the request.

Further, to support applicants in States with integrated operations, we consulted with the U.S. Department of Agriculture (USDA) to explore options for aligning response periods across Medicaid and SNAP. As a result of this consultation, USDA anticipates releasing guidance outlining available flexibilities for States to align their SNAP processes with Medicaid. Through these flexibilities, a minimum 15 calendar day response period will permit States with integrated eligibility systems to establish a single response period for SNAP and Medicaid. This will also support individuals applying for both programs simultaneously and help to minimize confusion when information is requested to determine eligibility. CMS and USDA's Food and Nutritional Service (FNS) are working in close collaboration to permit alignment of these allied programs wherever possible and will develop coordinated technical assistance to support state implementation.

We believe modifying § 435.907(d)(1)(i) to require a reasonable period of time (at least 15 calendar days) strikes an appropriate balance between applicants' need for sufficient time to gather necessary information and States' need for sufficient time to complete the determination, while also considering administrative burden. We believe that the reasonable response period (minimum of 15 calendar days) coupled with the reconsideration period proposed and finalized at § 435.907(d)(1)(iii) for applicants who are denied eligibility for failure to provide requested information timely alleviates any adverse impact on individuals who may need more time.

The minimum amount of time that a State may consider reasonable for an applicant to respond with additional information is 15 calendar days. Consistent with the revisions at 435.907(d)(1)(i) of this final rule, a State could consider that it is reasonable to provide only 15 calendar days for an applicant to obtain and submit a recent pay stub demonstrating income eligibility. However, for an applicant acquiring documentation of certain assets in order to verify resource eligibility for a non-MAGI group, the same State may also determine that more time may be reasonable. There is a limited exception to the 15-day minimum for certain MSP determinations based on Low Income Subsidy (LIS) application data (LIS leads data). If the LIS leads data does not support a determination of Medicare Savings Program (MSP) eligibility and the State requires additional information for the MSP determination, § 435.911(e)(8) requires States to provide individuals with a minimum of 30 days to furnish such information.

Finally, although we are not making changes to the existing 45 and 90 calendar day application timeliness standards at § 435.912(c)(3), we clarify that these standards represent the maximum amount of time a State may take to complete an eligibility determination. Recognizing that operational flexibilities and limitations differ in each State, we believe States are in the best position to establish reasonable timeframes for beneficiary responses that will permit the State to complete application processing timely, subject to the timeframes required under this final rule. Consistent with existing requirements at § 435.912(g)(1), we expect States to complete their initial eligibility determinations as quickly as possible and not use the timeliness standards to delay coverage for individuals who would otherwise be eligible.

Comment: Almost all commenters were supportive of the reconsideration period proposed at § 435.907(d)(1)(iii) for applicants who are denied eligibility for failure to provide requested information and who subsequently submit the information within the period allowed by the State.

Some of these commenters supported a 30-day reconsideration period, while others recommended providing a 90-day period at application to be consistent with the reconsideration periods at renewal and when an individual experiences a change in circumstances.

Many commenters did not support our proposal at § 435.907(d)(1)(iii)(B) and (C) to require States to provide a retroactive effective date of coverage back to the original date of application if an individual provided information during their reconsideration period. Some expressed concern that this policy would incentivize applicants to not respond timely and would be unfair to individuals who do provide the necessary information by the requested deadline. Other commenters noted that providing the retroactive effective date for coverage was an important beneficiary protection from harmful outcomes, like debt from unpaid medical bills. Some commenters suggested applying the same effective date rules for reconsideration periods at application, renewal, and changes in circumstances, such that the provision of additional information would be treated like a new application and the effective date of eligibility would be based on the new application date.

We received only one comment expressing concern about the burden of implementing a new reconsideration period for applicants. The commenter explained that they did not believe this would create any improvement since most application errors are resolved during the application review process.

Response: We agree with commenters that applying the same policies across all reconsideration periods, whether at application, renewal, or changes in circumstances, would promote consistency and reduce complexity for States and individuals who need to provide additional information at application, at renewal, or following a change in circumstances. Therefore, we are modifying proposed § 435.907(d)(1)(iii) in this final rule to increase the reconsideration period at application from 30 to a minimum of 90 calendar days, and requiring the effective date of coverage to be based on the date the requested information is received to align with the policies for reconsideration periods at renewal and following a change in circumstances. We do not believe it is reasonable to require States to provide retroactive coverage based on the original application date because applicants now have a longer period of time to respond without having to provide a new application. Additionally, States are required to provide eligible Medicaid applicants with retroactive coverage consistent with § 435.915(a).[13] We believe that this retroactive coverage will help address the impact of potential gaps in coverage for applicants who provide requested information during the reconsideration period. We note that States also have the option to provide retroactive coverage to individuals applying for CHIP under § 457.340(g).

Therefore, we are removing the provisions proposed at § 435.907(d)(1)(iii)(B) and (C) regarding the timeliness standard and effective date of eligibility. We are finalizing a

[13] Unlike other Medicaid eligibility groups, qualified Medicare beneficiary (QMB) benefits are not retroactive. Coverage begins the first day of the month following the month in which the individual is determined to qualify for this eligibility group.

single paragraph at § 435.907(d)(1)(iii) that (1) requires States to accept information submitted by an applicant within 90 calendar days of the date of denial and (2) specifies that States must treat the additional information like a new application and reconsider eligibility consistent with the current timeliness standards at § 435.912(c)(3). Because this information will be treated like a new application, the effective date of eligibility will be based on the date the information is returned consistent with current § 435.915.

Comment: A few commenters urged CMS to revise § 435.912(e) to limit the scope of the exceptions to the timeliness standards in § 435.912. Current § 435.912(e) provides that States must determine or redetermine eligibility within established timeliness standards except in unusual circumstances. One commenter was concerned that the example described at § 435.912(e)(2) for an administrative or other emergency beyond the agency's control is too broad and recommended removing the reference to ''administrative.'' Another commenter recommended that States be required to notify applicants and beneficiaries when they are taking advantage of the exceptions provided at § 435.912(e).

Response: We appreciate the commenters' concerns about protecting access to timely eligibility determinations. We believe the timeliness standards are critically important for ensuring that applicants and beneficiaries have timely access to the coverage and services to which they are entitled. At the same time, we believe it is important that the language in the example described at § 435.912(e)(2) remain sufficiently broad to account for a variety of unusual circumstances. As the introductory language at § 435.912(e) states, the situations described in paragraphs (e)(1) and (2) are simply examples of the types of circumstances that may require an exception to the timely determination of eligibility. We have, and will continue to, work with States when they experience unusual circumstances like natural disasters and other emergencies to determine whether a timeliness exception is warranted and to implement workarounds to ensure that individuals continue to have access to the benefits they need during this time. We also note that States are required to document the reason for the delay in the individual's case record in accordance with § 435.912(f).

Comment: We sought comment about whether States should be afforded additional time to determine CHIP eligibility for applicants seeking coverage under a separate CHIP for children with special health care needs (CSHCN), similar to the additional time provided at § 435.912(c)(3)(i) for States to make a final determination of eligibility for Medicaid coverage based on disability. Commenters indicated that it was not appropriate to provide States with extra time to make an eligibility determination for the separate CHIP for CSHCN because these children still have to meet the financial eligibility criteria for CHIP. Also, commenters were concerned that delaying a child's enrollment into CHIP for the sake of enrolling the child into CHIP for CSHCN, which offers an enhanced benefit package, could potentially be harmful. Instead, commenters believed it would be reasonable for States to continue to work with these children post-enrollment into CHIP if additional information is necessary to determine their eligibility for the State's CSHCN program, and to transition them to such program at a later time if appropriate.

Response: We agree with commenters that providing additional time for a determination of eligibility for a CSHCN program within CHIP is not necessary and could potentially delay the receipt of necessary care. Therefore, we are finalizing § 457.340(d)(1) as proposed.

b. At Renewal

At § 435.912(c)(4) of the proposed rule, we proposed requirements for timeliness standards for States to complete renewals conducted under § 435.916. We proposed three timeframes for completing timely renewals depending on the circumstances of the case. First, if a beneficiary's eligibility can be renewed based on available information or the beneficiary returns a renewal form with at least 25 days remaining in the eligibility period, we proposed that a State would be required to complete the renewal prior to the end of the individual's eligibility period. Second, if the State is redetermining eligibility on the basis for which a beneficiary has been enrolled and the beneficiary returns a renewal form less than 25 calendar days before the end of the eligibility period, we proposed that the State must complete the renewal by the end of the following month. Finally, if the State must redetermine eligibility on another basis other than disability, we proposed that the State would have an additional 25 calendar days to complete the eligibility determination. However, if the State is redetermining eligibility on the basis of disability, the State would have up to 90 additional calendar days from the date the individual is determined ineligible on their current basis.

Comment: Many commenters supported the clarity of the timeliness standards for renewals proposed at § 435.912(c)(4), including our proposal to provide States with additional time to complete a renewal when renewal forms are received near the end of a beneficiary's eligibility period. However, other commenters stated that the proposed timeliness standards were too prescriptive, and that additional flexibility is necessary for States to be able to effectively manage their processes.

Response: We appreciate commenter support for our proposal to ensure that States have sufficient time to complete a timely eligibility determination, particularly when beneficiaries provide all necessary information close to the end of their eligibility period. We also agree with commenters that flexibility is important for States to effectively administer their Medicaid and CHIP programs, although we believe our proposal at § 435.912(c)(4) provides more flexibility than currently is available to States. As discussed in section II.B.3. of the September 2022 proposed rule, § 435.930(b) currently requires States to continue furnishing Medicaid benefits to eligible individuals until they are found to be ineligible. This means a State must maintain the eligibility of a beneficiary who submits all needed information at the end of their eligibility period, until the State can complete a redetermination, and if the beneficiary is no longer eligible, provide advance notice and fair hearing rights. However, current regulations do not provide for an extension of the renewal process beyond the end of a beneficiary's eligibility period, even if additional information is not provided to the State in a timely manner and even when the State is required to evaluate eligibility on other bases. Proposed paragraphs (c)(4)(ii) and (iii) of § 435.912 address this tension in the current regulations, by accounting for those situations in which States will need additional time to complete an eligibility determination in order to comply with § 435.930(b) without running afoul of the requirement in § 435.916 to renew eligibility once every 12 months. Therefore, we are finalizing the proposed policy to permit States to extend the redetermination process beyond the end of a beneficiary's eligibility period when information is received late in the process or eligibility needs to be determined on another basis, but we are making some modifications to the standards

themselves as described in the comment responses that follow.

We note that the timeliness standards described at § 435.912(c)(4) represent the maximum amount of time that States may take to complete renewals. States maintain significant flexibility when establishing their timelines to process renewals and are not required to take the maximum amount of time described in the regulation to complete a renewal. In establishing standards for timely renewals, § 435.912(c)(2) which we are finalizing as proposed, requires States to demonstrate that their timeliness standards address certain criteria, including prior State experience, availability of information, the needs of beneficiaries, and advance notice requirements.

Comment: Many commenters expressed concern about the variety of timeliness standards proposed for different circumstances at renewal, which could require completion of the renewal at the end of the beneficiary's eligibility period (§ 435.912(c)(4)(i)), the end of the month following the end of the beneficiary's eligibility period (proposed § 435.912(c)(4)(ii)), and 90 or 25 calendar days following a determination of ineligibility on the current basis when eligibility on another basis must be determined (proposed § 435.912(c)(4)(iii)). Some commenters also expressed confusion about the maximum timeliness standard applicable under proposed § 435.912(c)(4)(iii) when eligibility is being determined on a different basis. There also was concern that requiring several different timeframes for completion of renewals depending on when information is returned to the agency would be challenging to implement. Several commenters indicated that these changes, and the variety of timeframes associated with them, would require complex systems changes and extensive training for eligibility workers.

Response: We appreciate commenters' concern that the variety of different timeframes proposed for timely renewals, which differ from the current timeframes for application and the proposed timeframes for changes in circumstances, would add unnecessary complexity and confusion and would require complex systems changes and significant training for eligibility workers. In this final rule, we simplify the maximum timeframes for timely renewals at § 435.912(c)(4) to align more closely with the existing timeframes for timely eligibility determinations at application and the timeframes for processing changes in circumstances.

The September 2022 proposed rule included three maximum timeliness standards for renewals: (1) the end of the eligibility period for renewals that can be completed using available information and those for which all necessary information is returned to the State at least 25 or more calendar days prior to the end of the eligibility period (proposed § 435.912(c)(4)(i)); (2) the end of the month following the end of the eligibility period for renewals for which needed information is returned with no less than 25 calendar days prior to the end of the eligibility period (proposed § 435.912(c)(4)(ii)); and (3) following a determination of ineligibility, 90 calendar days for eligibility determined based on disability or 25 calendar days when eligibility must be determined on a different basis (proposed § 435.912(c)(4)(iii)). At § 435.912(c)(4) of this final rule, we are finalizing the requirement to complete all renewals by the end of the eligibility period with two exceptions.

The first exception, at § 435.912(c)(4)(i), occurs when additional information needed to determine eligibility is not returned timely. We proposed a threshold of 25 calendar days, meaning if the beneficiary returned the renewal form at least 25 calendar days before the end of the eligibility period, the State must process the renewal before the end of the eligibility period. If the beneficiary returns the renewal form with less than 25 calendar days before the end of the eligibility period, the proposed rule would have required that the State process the renewal by the end of the month following the end of the eligibility period. In this final rule, we are increasing this threshold to 30 calendar days before the end of the eligibility period, such that if a beneficiary returns their renewal form at least 30 calendar days before the end of their eligibility period, the State must process the renewal before the end of the eligibility period. If less than 30 calendar days remain before the end of the eligibility period, the State must process the renewal by no later than the end of the following month.

The second exception, finalized at § 435.912(c)(4)(ii), permits States to establish a separate timeliness standard when eligibility must be determined on another basis. We proposed at § 435.912(c)(4)(iii) to provide States with an additional 90 calendar days to complete a renewal when the other basis requires a disability determination and 25 calendar days when the other basis does not require a disability determination. In this final rule, we are maintaining the 90 calendar day threshold for disability-related determinations and increasing the timeframe for all other determinations to 45 calendar days to be consistent with the existing timeliness standards at application.

Again, we clarify that the standards described at § 435.912(c)(4) are the maximum standards that a State may establish for timely eligibility renewals. States retain flexibility to complete renewals requiring a determination on other bases more quickly, provided that the State provides beneficiaries with at least 30 calendar days consistent with § 435.916(b)(2)(i)(B) as well as the minimum 10 days advance notice and fair hearing rights required under 42 CFR part 431, subpart E.

Comment: Many commenters raised concerns that the proposed thresholds for renewals, as well as changes in circumstances, would need to be tracked and reported to CMS, which would require extensive modifications to their systems.

Response: We are not establishing new reporting requirements for States to report on the timeliness thresholds established in this final rule. Section 435.912(b) requires States to establish timeliness and performance standards in their State plan. However, we recognize that States may find tracking this information important for purposes of their own internal audits or external reviews, such as PERM and MEQC reviews and other CMS eligibility audits.

Comment: Many commenters were concerned that the changes proposed at § 435.912(c)(4)(ii) and (iii), which permit States to establish renewal timeliness standards that extend beyond the end of an individual's eligibility period, would result in many renewals being completed after a beneficiary's eligibility period ends. Commenters were concerned about the fiscal impact of that policy if States are required to keep beneficiaries enrolled in coverage while they complete their renewal and then the beneficiary is ultimately found to be ineligible. Some commenters also sought clarification on whether States could continue to receive enhanced funding based on a beneficiary's current eligibility group during the additional time available to States to redetermine eligibility based on information provided less than 25 calendar days prior to the end of the beneficiary's eligibility period consistent with proposed § 435.912(c)(4)(ii).

Response: Current regulations at § 435.930(b) require States to continue furnishing Medicaid benefits to all eligible individuals until the State completes a redetermination and finds

an individual to be ineligible. The timeliness standards proposed at § 435.912(c)(4) do not modify those requirements. States are still expected to complete redeterminations prior to the end of a beneficiary's eligibility period whenever possible. What the renewal timeliness standards finalized at § 435.912(c)(4) recognize is that sometimes it is not possible for a State to complete a renewal by the end of a beneficiary's eligibility period because the State received requested information from that beneficiary too close to the end their eligibility period or the State needs to evaluate eligibility on other bases. If a State concludes that an individual is ineligible with less than 10 days remaining in the eligibility period, the State will be unable to provide the required advance notice and terminate eligibility before the eligibility period ends. In such cases, the State must continue eligibility beyond the end of the eligibility period, and if the State has elected to extend coverage through the end of the month, that beneficiary would remain enrolled until the end of the month following the month in which the eligibility period ends. Under § 435.912(c)(4)(i) of this final rule, this would be considered a timely renewal.

Section 435.912(c)(4) of this final rule recognizes that a beneficiary remains eligible until determined ineligible, and States must continue providing benefits until the determination is complete. As such, as long as the eligibility determination is conducted in accordance with the timeliness standards for renewals outlined in § 435.912(c)(4), States may continue to claim the same match rate for such beneficiaries, until they are determined ineligible, without the potential risk of eligibility-related improper payments or other negative audit findings due to this requirement. For increased clarity of existing policy, we modify § 435.912(g)(2) in this final rule by adding a cross-reference to § 435.930(b) to ensure that States may not use the timeliness standards as a reason to stop furnishing benefits if they are unable to complete eligibility determinations in a timely manner.

c. At Changes in Circumstances

We proposed two different timeliness standards at § 435.912(c)(5) and (6) for redeterminations based on changes in circumstances that may impact eligibility. First, we proposed at § 435.912(c)(5)(i) that States must complete redeterminations based on a reported change by the end of the month in which 30 calendar days from the date the agency becomes aware of the change falls, unless the State needs to request additional information from the beneficiary. In that case, we proposed that the State must complete the redetermination by the end of the month in which 60 calendar days from the date that the agency received the reported change in circumstances falls, as described at proposed § 435.912(c)(5)(ii).

Second, for anticipated changes of circumstances, we proposed at § 435.912(c)(6) to use the same general standard proposed for renewals based on whether all necessary information is available at least 25 calendar days before the change occurs. Anticipated changes are those that the State knows will occur in the future, like a beneficiary turning 65 and becoming eligible for Medicare or aging out of the eligibility group for children under age 19. As described at proposed § 435.912(c)(6)(i), if all information needed to redetermine eligibility is available with 25 or more calendar days before the date of the change, a State would be required to redetermine eligibility by the date (or at State option, the end of the month) the anticipated change will occur. Per proposed § 435.912(c)(6)(ii), if the State receives needed information with less than 25 calendar days remaining before the anticipated change occurs, the State must complete the redetermination by the end of the month following the anticipated change. Finally, we proposed at § 435.912(c)(6)(iii) that if a State must redetermine eligibility on another basis following an anticipated change in circumstances, they must complete the redetermination within either 25 calendar days (or, if on the basis of disability, 90 calendar days) from the date it determines the individual is ineligible based on their current basis.

Comment: While some commenters were supportive of the proposed timeliness standards for reported changes in circumstances at § 435.912(c)(5), others suggested that CMS adopt a simplified approach. One commenter recommended including language to specify that the timeliness standard begins once all necessary information is received.

Response: We appreciate commenters' support of proposed § 435.912(c)(5). We believe the proposal clearly outlines the applicable standards based on whether States seek additional information or not, so we will not modify those requirements in this final rule. However, in order to provide alignment across all changes in circumstance timeliness standards, we have added a new § 435.912(c)(5)(iii) in this final rule to clarify that as a result of a change in circumstances, States must redetermine eligibility on another basis within 90 calendar days for determinations based on disability or 45 calendar days for all other determinations. The additional 90 or 45 calendar days begins on the day the State determines the individual is no longer eligible on their current basis of eligibility.

Comment: Many commenters did not support the proposed timeliness standards for anticipated changes at § 435.912(c)(6). Similar to renewals, commenters raised concerns regarding the complexity of implementing and tracking a 25-calendar day cutoff to know when additional time would be available to complete a redetermination due to an anticipated change in circumstances. Another commenter did not agree with proposed § 435.912(c)(6)(iii)(B), stating that 25 calendar days was not enough time to redetermine eligibility on other bases for an individual who was found ineligible on their current basis due to the anticipated change in circumstances and instead recommended applying the same timeliness standard proposed for reported changes in § 435.912(c)(5).

Response: We understand the commenters' concerns about the complexity of the maximum timeliness standards proposed for anticipated changes in circumstances. Similar to the changes made to streamline the maximum timeliness standards at renewal at § 435.912(c)(4), we are streamlining the requirements for the timeliness of redeterminations related to anticipated changes in eligibility. Specifically, we are establishing a single standard for timely redeterminations regarding anticipated changes in circumstances and creating two exceptions. As described at § 435.912(c)(6) of this final rule, a redetermination of eligibility based on an anticipated change may not exceed the end of the month in which the change occurs, except in cases where the beneficiary returns needed information late in the process or the State needs to complete a determination of eligibility on another basis. In section § 435.912(c)(6)(i) of this final rule, we increase the 25-calendar day threshold to 30 calendar days, such that if a beneficiary returns requested information less than 30 days prior to the end of the month in which the anticipated change occurs, the State must complete the redetermination by the end of the following month. At § 435.912(c)(6)(ii) of this final rule, we apply the existing timeliness standards for new applications when a State must consider eligibility for a beneficiary on another basis following a change in

circumstances. This provides States with a maximum of 45 additional calendar days that begins when States make the determination of ineligibility on the original basis, to complete an eligibility determination on a new basis for beneficiaries whose eligibility is not being redetermined based on a disability. If a disability determination is required, the State may take up to an additional 90 calendar days to complete the eligibility determination.

d. Overarching Comments and CHIP-Specific Considerations

In addition to the comments discussed previously in this final rule, we received several general comments that relate to the proposed beneficiary response requirements or timeliness standards, including CHIP-specific changes, as follows.

Comment: In the September 2022 proposed rule, we sought comment on whether the 30-day beneficiary response timeframes proposed at §§ 435.907(d)(1)(i), 435.916(b)(2)(i)(B), and 435.919(c)(1)(i) should be calculated using calendar days or business days. Additionally, we sought comment on whether the timeliness standards for States to complete a redetermination of eligibility at a regularly-scheduled renewal or based on a change in circumstances at proposed § 435.912(c)(4) through (6) should be based on calendar or business days. The majority of commenters supported a timeframe based on calendar days to maintain consistency with existing standards and minimize differences across States based on recognizing different holidays. However, a few commenters supported using business days or giving States flexibility to use the most appropriate approach, because in some cases using business days would provide applicants with more time in which to submit requested information.

Response: We appreciate commenters' feedback in this area and agree that continuing to adhere to current practices, which define the response period based on calendar days, would maintain consistency and minimize confusion among both eligibility workers and beneficiaries. Therefore, we are finalizing §§ 435.907(d)(1)(i) and 435.916(b)(2)(i)(B) as proposed and modifying §§ 435.919(c)(1)(i) and 457.344(c)(1)(i) to specify ''calendar days'' to describe applicant and beneficiary response periods consistently throughout this final rule. Finally for increased clarity of current policy at application, we are making a technical change to specify ''calendar days'' at § 435.912(c)(3) and modifying proposed § 435.912(c)(4) through (6) to also specify that States must redetermine an individual's Medicaid eligibility on another basis using timeliness standards based on ''calendar days.''

Comment: Many commenters supported CMS clarifying in this final rule that the 30-day response period begins on the date a request for additional information is sent, which we defined in the September 2022 proposed rule as the date the request was postmarked. Commenters believed that this would help to reduce the impact of delays on the amount of time available to an applicant or beneficiary if the State or the mail system is delayed in sending requests for additional information in a timely manner. However, commenters were concerned that it would not be practical to base the response period on the day the request was postmarked due to operational challenges. For example, one commenter explained that in many cases it would not be possible for States to know the exact date the request was postmarked, and they would have to rely on beneficiaries keeping the original envelopes to determine the 30-calendar day response timeframe at renewal. Commenters were concerned that this approach would also not allow States to include a specific deadline for response within the request for additional information, and that they would have to rely on beneficiaries to determine their own deadline based on the postmarked date. Another commenter indicated that requiring States to postmark all requests could increase mailing costs if their current process does not include postmarked envelopes.

Response: At §§ 435.916(b)(2)(i)(B), and 435.919(c)(i), we proposed to require States to begin an applicant or beneficiary's 30-day response timeframe on the date the agency sends the notice or form. As discussed in the September 2022 proposed rule, our expectation is that States will base the beginning of the beneficiary response window on the date the request is postmarked, when applicable. If the required notice or form is not sent through U.S. mail with a postmark, then the 30 calendar days would be calculated based on the date the required notice or form is sent electronically or submitted to the post office for mailing.

While we appreciate commenters' concerns that it may be difficult to always know the specific date that a notice is postmarked or sent, we believe the benefit of a consistent policy across States outweighs the challenges. In a State that uses a contractor for mailing, we would expect the agreement between the State and the contractor to include details about the timeliness of mailings, and the 30-calendar day response period would be based on that agreement. For example, if the contract specifies that all mailings are completed within 2 days of receipt from the State, the return date specified in the notice would be 32 days after the notice is sent out for mailing. We agree that it would be inappropriate to notify a beneficiary that they must return needed information within 30 days of the postmark date and then expect the beneficiary to calculate the due date. This would also make it difficult for the State to include a deadline in the eligibility system for receipt of the needed information. We believe that proposed §§ 435.907(d)(1)(i), 435.916(b)(2)(i)(B), and 435.919(c)(i) will ensure that all Medicaid beneficiaries are provided with sufficient time to respond to requests for additional information at application, renewal, or a change in circumstances. Therefore, we are finalizing these provisions as proposed.

Comment: Many commenters supported the technical changes throughout § 435.912 to clarify that timeliness standards are applicable at application, renewal, and changes in circumstances, including the proposed changes at § 435.912(c)(1) to further clarify the period covered when calculating a State's timeliness standards. Commenters also supported expanding the criteria at § 435.912(c)(2), that States need to consider when developing their performance and timeliness standards, such as accounting for time needed to evaluate information obtained from electronic data sources and to provide required advance notice when the agency makes a determination that results in an adverse action. Finally, commenters supported the requirement at proposed § 435.912(g)(3), which specifies that States may not use the timeliness standard to delay an adverse action, including termination of an individual's coverage.

Response: We appreciate commenters' support of these specific changes as well as the technical changes throughout § 435.912 to clarify that timeliness standards are now applicable at application, renewal, and changes in circumstances. We are finalizing as proposed § 435.912(c)(1) (period covered by the timeliness and performance standards), (c)(2) (criteria for establishing timeliness and performance standards), and (g)(3) (prohibition on using the timeliness standards to delay adverse action), as well as the technical changes extending

existing requirements at § 435.912 to renewals and redeterminations based on changes in circumstances. We note that references to requirements for changes in circumstances within § 435.912(b)(4) and (c)(1)(iii) and (iv) were revised consistent with the redesignation of those requirements in this final rule as discussed in section II.B.2. of this final rule.

Comment: Some commenters recommended that CMS engage in stronger oversight and enforcement of timeliness requirements. While commenters agreed that new timeliness standards at renewal and changes in circumstances were important, they remained concerned that States will struggle to meet these new timeliness standards, because they continue to struggle to meet the existing timeliness standards at application. For example, one comment suggested including State reporting requirements at § 435.912 for the timeliness standards as a condition to receive FFP, because it would not be difficult to expand the current Performance Indicator data set, where States currently report application timeliness data, to incorporate reporting elements specific to timeliness for renewals and changes in circumstances. Others urged CMS to consider imposing sanctions on States that have a high percentage of determinations that are not completed within the required timeliness standards.

Response: We appreciate commenters' concerns regarding State compliance with timeliness standards, and we agree that it is critical for States to complete all eligibility determinations as quickly as possible. We believe oversight and enforcement are important components of our role with respect to Medicaid, CHIP, and the BHP. As such, this final rule includes important regulatory requirements for States and protections to ensure that eligible applicants and beneficiaries can enroll and stay enrolled as long as they continue to meet the requirements of their program. In this final rule, we are not including reporting requirements for the timeliness standards at § 435.912. Processes are already in place at both the State and Federal levels to ensure that applications, renewals, and redeterminations are processed timely. We note that States that do not comply with these requirements may be cited for improper payments identified during PERM reviews, MEQC reviews, other CMS eligibility audits, or State-level audits. Consistent with existing program requirements, improper payments identified by PERM and MEQC may be subject to recoveries.

Comment: The comments we received with respect to modifying §§ 457.1140, 457.1170(a), and 457.1180 supported these changes, which (1) require States to provide an opportunity for review if States fail to make a timely CHIP eligibility determination at application or renewal and (2) emphasize that continuation of enrollment under § 457.1170 includes continued provision of benefits pending a review.

Response: We are finalizing §§ 457.1140, 457.1170, and 457.1180 as proposed.

After considering all comments received, we are finalizing the proposals described above in this section with the modifications discussed. We note that these changes revising timeliness standards to expressly apply at application, renewal, and when a change in circumstance occurs, requiring States to provide a minimum number of days for individuals to return information needed to verify eligibility, providing specific timeframes for conducting Medicaid and CHIP renewals, including when beneficiaries return information late and when the State needs to consider eligibility on other bases, and establishing a 30-day reconsideration period for applicants who return needed information after being determined ineligible for failure to respond, operate independently from the other provisions of this final rule.

4. Agency Action on Updated Address Information (§§ 435.919 and 457.344)

As we discussed in section II.B.2. of this final rule, in order to ensure that Medicaid and CHIP beneficiaries continue to meet applicable eligibility requirements, States must have a process to obtain information about changes in circumstances that may impact eligibility and to redetermine eligibility when appropriate. A change in address represents such a change. Beneficiaries who have moved out of State will no longer meet eligibility requirements for coverage in the original State (unless the State has suspended its State-residency requirement or has extended Medicaid and/or CHIP eligibility to individuals who are not residents of the State). Beneficiaries who have moved to a new in-State address are at risk of procedural termination at a regularly-scheduled renewal, if they rely on mailed paper notices and the State does not have their updated address. Indeed, our experience in working with States and beneficiary advocacy organizations indicates that returned mail historically has resulted in a significant number of beneficiaries losing their coverage, because their continued eligibility cannot be confirmed by the State. As such, it is critical for States to take reasonable steps to locate and update the contact information of beneficiaries who may have moved, prior to terminating their coverage or taking any other adverse action.

In the September 2022 proposed rule, we included new paragraphs (f) and (g) at proposed § 435.919 for Medicaid and § 457.344 for CHIP to specify the steps States must take when beneficiary mail is returned to the agency by the United States Postal Service (USPS) (paragraph (f)) or when the agency obtains updated mailing information from third-party data sources (paragraph (g)). For brevity, in the following discussion we provide only the Medicaid references at § 435.919(f) and (g). When reading these references please note that the policy includes both the Medicaid requirements at § 435.919(f) and (g) and the CHIP requirements at § 457.344(f) and (g) unless otherwise stated.

We proposed the following three-step process when the State receives returned beneficiary mail:

- Step 1 would require the State to check available data sources for updated beneficiary contact information (proposed § 435.919(f)(1));
- Step 2 would require the State to (1) conduct outreach via mail to the original address on file, the forwarding address (if provided on the returned mail), and all addresses obtained in Step 1; and (2) make at least two additional attempts through one or more modalities other than mail, such as phone, text or email, to locate the beneficiary and verify their address (proposed § 435.919(f)(2) and (3));
- Step 3 describes the actions a State would be required to or would have the option to take when a beneficiary's new address could not be verified, and mail was returned with an in-State forwarding address (proposed § 435.919(f)(4)), an out-of-State forwarding address (proposed § 435.919(f)(5)), or no forwarding address at all (proposed § 435.919(f)(6)). We also proposed conforming changes to §§ 431.213(d) and 431.231(d) regarding returned mail with no forwarding address.

At proposed § 435.919(g), we described the steps a State would have to take to verify the accuracy of information obtained from a third-party data source other than the USPS. Specifically, at § 435.919(g)(1), we proposed that States that obtain updated in-State mailing information from USPS National Change of Address (NCOA)

database or managed care plans [14] may treat such information as reliable, provided that the State completes the same basic actions described in Step 2 for returned mail (for example, attempt to contact the beneficiary at the original address on file and the new address provided by the third-party data source, and complete at least 2 additional attempts to contact the individual to verify their new address through one or more modalities other than mail). At § 435.919(g)(2), we proposed that, with Secretary approval, States may treat updated in-State information from other trusted data sources in accordance with proposed paragraph (g)(1), and at § 435.919(g)(3), we proposed that for all other third-party updates, the State must follow the actions described in steps 2 and 3 for returned mail. For additional information on the requirements and State options in proposed § 435.919(f) and (g), see section II.B.4. of the September 2022 proposed rule.

We received the following comments on these provisions:

Comment: Many commenters supported the three-step process proposed for responding to returned mail. They noted that Medicaid beneficiaries may move frequently; parents and other caregivers, especially those experiencing housing instability, are often under extreme amounts of stress, and updating their address may not be a high-enough priority to take care of immediately; and some beneficiaries maintain non-traditional residences that cannot receive mail. These commenters noted that returned mail can be a particular problem for people who are housing insecure.

Many commenters stated that the proposed processes represent a reasonable approach that would promote retention of eligible individuals, reduce procedural disenrollments, avoid churn, and accelerate the pace at which States adopt non-traditional modes of beneficiary communication, which can be more efficient, cost-effective, and timely. The commenters asserted that clear guidance and commonsense tactics to better locate beneficiaries in the event of returned mail would help to mitigate unnecessary coverage losses and will be particularly important as millions of notices requiring a response are physically mailed to program enrollees during the unwinding period.

While most commenters supported increasing requirements for States to confirm the accuracy of beneficiary contact information and obtain updated address information when mail is returned, some of these same commenters also opposed the specific requirements included in the September 2022 proposed rule. These commenters described the proposed requirements for returned mail and other address updates as overly complicated and burdensome, particularly for States that already exercise reasonable diligence in handling returned mail and attempting to locate enrollees who have moved. They raised concerns about potential negative, unintended consequences for beneficiaries; requirements not reflecting on-the-ground realities; and increased risk of negative audit findings.

A number of commenters expressed concern that the proposed returned mail requirements are unduly prescriptive, weaken or remove State flexibility, include an unprecedented level of detail that is likely to become outdated over time, and lack the flexibility for simple solutions, like calling a beneficiary to get an updated address. Specific operational challenges raised by commenters include: the need to implement significant system updates across multiple enrollment systems; challenges in reconfiguring timeframes for timed processes; increased workload for outreach and imaging staff; increased mailing costs, including the cost of paper, postage, and mail vendors; and the need for new legislative and budget authority. Some of these commenters urged CMS not to finalize the proposed changes, but instead to work directly with States to better understand the operational realities, and to support the development of State-specific strategies that meet local needs.

Response: We appreciate the support for requirements that protect coverage for eligible individuals, particularly those who may be housing insecure, by establishing reasonable solutions to the problems posed by returned mail. At the same time, we also appreciate the concerns and challenges raised by commenters about States' ability to implement the specific steps set forth in the September 2022 proposed rule, and we recognize that the same approach may not be best for all States. As such, we are finalizing a simplified set of requirements for returned mail and address updates.

The September 2022 proposed rule included separate requirements for agency action when mail is returned by the USPS (paragraph (f)) and when updated address information is obtained from sources other than returned mail (paragraph (g)). We are combining paragraphs (f) and (g) of proposed § 435.919 into one paragraph at § 435.919(f) (Agency action on updated address information) in this final rule that establishes a single set of requirements for all types of address changes. Then we are streamlining the requirements at § 435.919(f), such that paragraph (f)(1) describes the requirements for obtaining updated address information from third-party data sources, paragraphs (f)(2) through (4) describe the actions required by the State depending on the type of address information received, and paragraph (f)(5) describes the good-faith effort requirements for contacting beneficiaries as needed to confirm updated information.

Within § 435.919(f), we are also making changes to provide greater State flexibility, such as by removing some of the details for operationalizing the regulatory requirements. This will permit continued use of existing strategies for addressing returned mail, such as those established during the COVID–19 PHE under the waiver authority of section 1902(e)(14)(A) of the Act, which have proven very effective with updating beneficiary contact information without any notable adverse impact on beneficiaries. These changes are detailed in the succeeding discussion.

Comment: We received many comments about the use of third-party data sources for updating beneficiaries' mailing addresses. Many commenters supported the requirement proposed at § 435.919(f)(1) that States check data sources, including the agency's Medicaid Enterprise System and the agency's contracted managed care plans, if applicable, when mail is returned to the State. They noted that obtaining updated, accurate information from reliable outside sources will help to reduce disenrollment of otherwise eligible beneficiaries and ensure that they continue to receive important information about their coverage. Other commenters supported the use of electronic data sources but were opposed to the specific requirements proposed. A few commenters noted the cost implications for building new interfaces and establishing data sharing agreements with multiple managed care plans, and with other entities like SNAP, TANF, or the State's department of motor vehicles (DMV).

Many commenters specifically supported the proposed requirement at § 435.919(f)(1)(ii) and option at § 435.919(g)(1) for States to obtain updated beneficiary contact information from their contracted managed care

[14] Throughout this document, the use of the term ''managed care plan'' includes managed care organizations (MCOs), prepaid inpatient health plans (PIHPs), prepaid ambulatory health plans (PAHPs), primary care case managers (PCCMs) and primary care case management entities (PCCM entities).

plans. A number of commenters flagged managed care plans as one of the best sources for updated address information. The commenters stated that plans are more likely than States to have recently updated contact information, since beneficiaries typically engage with their managed care plans more frequently than they engage with the State Medicaid agency. Managed care plans often have multiple points of contact with their members, including hospital admissions, provider relationships, care management programs, disease management programs, and other health plan activities.

A number of commenters also highlighted the nationwide reliability of the NCOA database and recommended that all States be required to use it. Commenters stated that forwarding addresses and updated contact information from the NCOA database are almost always accurate. One State reported that it had never received a member report of an incorrect address update based on the NCOA database. Another commenter explained that the NCOA database includes safeguards to ensure accuracy of change requests, making it a readily accessible and reliable source of information.

Several commenters stated that CMS should give States the option to accept updated addresses from managed care plans and the NCOA database without first having to contact beneficiaries to reverify the information. The commenters recognized that this strategy is proving effective under waiver authority granted under section 1902(e)(14)(A) of the Act to assist States in returning to normal operations during the unwinding period. As such, they indicated that the strategy should be made permanent.

Some commenters recommended going beyond a State option and requiring States to obtain updated contact information from their contracted managed care plans and the NCOA database. They noted that despite the availability of waiver authority under section 1902(e)(14)(A) of the Act and CMS' guidance highlighting its use as a best practice, some States have not established the necessary data exchange protocols to obtain updated contact information from their contracted managed care plans. Many commenters supported a requirement that States use both the NCOA database and information obtained from contracted managed care plans. One commenter suggested that without a requirement across all States, CMS would effectively be authorizing States to reject reliable sources of information and to increase procedural terminations; and such policies would disproportionately affect eligible people of color.

Many commenters supported the use of automatic, electronic data matches to the greatest extent possible because they not only mitigate churn, but also reduce administrative burden on beneficiaries and States. Other commenters recommended caution when using updated contact information and addresses obtained from sources other than the beneficiary, when they have not been directly confirmed by the State agency with the beneficiary. Finally, one commenter recommended that States be required to give notice to beneficiaries and provide them with an opportunity to verify the information obtained from these data sources.

Response: We appreciate commenters' support for State use of available, reliable data sources to identify updated beneficiary addresses and other contact information. We agree that the use of outside data sources will improve States' ability to maintain contact with beneficiaries and will reduce unnecessary procedural terminations. We also appreciate the feedback regarding the cost and burden required to establish new connections with outside data sources.

As described in section II.B.4. of the September 2022 proposed rule, we proposed to require, at § 435.919(f)(1), that States check their Medicaid Enterprise System, their contracted managed care plans (if applicable), and at least one other data source such as the NCOA database, for updated mailing address information whenever beneficiary mail is returned by the USPS. At § 435.919(g)(1), we proposed that independent of the returned mail processes, States that obtain updated in-State mailing information from the NCOA database or contracted managed care plans may, at their option, treat that information as reliable, provided they contact beneficiaries and provide them with an opportunity to review the information as specified at proposed § 435.919(g)(1)(i). We also requested comment on whether States should be required, or permitted, to update beneficiary contact information based on information obtained from a managed care plan, the NCOA database, or other reliable sources, without first attempting to contact the beneficiary to verify the information.

We received significant support from commenters for a requirement that States obtain and act on updated address information provided by contracted managed care plans (when such information has been verified by the beneficiary) and the NCOA database, without requiring the State Medicaid or CHIP agency to complete additional verification. Commenters also supported the use of forwarding information provided by USPS without additional beneficiary verification. Based on this feedback, at § 435.919(f)(1)(i), we are revising and redesignating proposed § 435.919(f)(1) and (g)(1) to require that States establish a process to regularly obtain updated address information from reliable third-party data sources for use in updating beneficiaries' addresses in their case records. At § 435.919(f)(1)(iii), we define four types of data sources as always reliable for this purpose: (1) mail that is returned to the State agency by USPS with a forwarding address: (2) the NCOA database; (3) managed care plans under contract with the State, provided that the managed care plan received the information directly from the beneficiary or verified it with the beneficiary; and (4) other data sources identified by the State agency and approved by the Secretary. Hereafter in this preamble, we will refer to the sources described in § 435.919(f)(1)(iii) as ''reliable data sources.'' We also clarify at § 435.919(f)(1)(iii)(C) that for the purpose of this rule, managed care plans include MCOs, PIHPs, PAHPs, PCCMs, and PCCM entities as defined in § 438.2 of the subchapter.

In returning to normal operations during the unwinding period, the vast majority of States requested (and were granted) waiver authority under section 1902(e)(14)(A) of the Act to accept updated contact information from contracted managed care plans and/or the NCOA database, without separately verifying the information with beneficiaries. We did not receive any feedback from commenters suggesting that this practice was, or would, harm beneficiaries or their access to coverage. We agree with commenters that implementing this process nationwide would result in more equitable treatment of beneficiaries across States and improved access for all Medicaid and CHIP beneficiaries nationwide. Therefore, we are finalizing a requirement at § 435.919(f)(2)(i) that when a State receives information regarding an in-State change of address from a reliable data source, the State must accept the information as reliable, update the beneficiary's case record with the new information, and notify the beneficiary of the update.

We recognize that some States will incur new costs as they establish data sharing agreements, create new electronic exchanges with the NCOA database and/or contracted managed care plans, and train staff in the use of

reliable, third-party information. However, we believe States will also see a reduction in the volume of returned mail as a result of this new policy. The benefits of maintaining up-to-date contact information for all beneficiaries should outweigh these upfront costs.

Comment: We received many comments supporting the use of data sources other than the NCOA database and contracted managed care plans, such as the examples described in proposed § 435.919(f)(1)(iii): SNAP, TANF, DMV, and other sources identified in the State's verification plan. Many commenters supported allowing States to accept updated address and contact information from a more expansive list of third-party sources. Suggested data sources include: medical providers and health clinics; Indian health care providers; essential community providers such as Federally Qualified Health Centers (FQHCs); community service providers such as a homeless shelters, homeless services providers or reentry programs; organizations that support managed care delivery systems, such as enrollment brokers; pharmacies and prescription drug plans; commercial third-party data providers; State and health plan contractors such as non-emergency medical transportation providers; schools; legally authorized representatives and/or emergency contacts; and other partners. One commenter supported crosschecking beneficiaries' addresses across State programs. Another commenter recommended that CMS more flexibly define reliable data sources and allow States to utilize additional sources that have proven to be credible (such as credit reporting agencies and utility companies).

Many commenters recommended State flexibility with respect to the data sources to be used, and two commenters specifically opposed requirements to create new electronic data exchanges with sources a State has determined not to be helpful. One commenter stated that requiring States to check data sources with which they do not already have electronic connections will require eligibility workers to manually review a long list of data sources before acting on information, even when third-party information may not be reliable. Another commenter expressed support for an explicit requirement that the State Medicaid Agency select the third-party source that is believed to be the most comprehensive.

Finally, many commenters expressed support for the provision at proposed § 435.919(g)(2) authorizing States to use updated in-State address information from other trusted data sources with approval from the Secretary and further supported permitting such sources to be deemed ''reliable'' such that the information does not need to be reverified by the State. Some recommended permitting other reliable data sources, at State option, since the quality of data and the feasibility of accepting updated addresses varies between States and data sources.

Response: We believe updated address information available from the NCOA database and updated address information verified by contracted managed care plans should always be considered reliable. As discussed, we are requiring at § 435.919(f)(1)(i) of this final rule that States must establish processes to regularly obtain and act on information from these reliable data sources. We appreciate that other outside sources of information may also be efficient and effective for this purpose; however, we do not have enough information to conclude that any other such sources are sufficiently reliable to permit States to accept updated beneficiary contact information from them without separately verifying the information with the beneficiary or to require their use by all States.

In this final rule, proposed § 435.919(g)(2) is redesignated at § 435.919(f)(1)(iii)(D), permitting States to request authority to utilize other data sources as reliable data sources, provided they can demonstrate that the data source provides reliable, up-to-date address information that has been verified with the beneficiary or an individual described at § 435.907(a) who is permitted to submit information on behalf of the beneficiary. At § 435.919(f)(1)(ii) of this final rule, we also revise and redesignate proposed § 435.919(g)(3), permitting States to establish a process to obtain information from other third-party data sources as well and to act on such information following additional verification by either a reliable data source or the beneficiary.

Additional verification is required for two types of address changes: in-State address changes obtained from a third-party data source other than those considered reliable for this purpose and out-of-State address changes received from any source. Section 435.919(f)(2)(ii) of this final rule provides that when an in-State address change is provided by a data source not described in § 435.919(f)(1)(iii), the State must check their Medicaid Enterprise System, along with the most recent information obtained from reliable data sources, before taking any further action. In the September 2022 proposed rule, we did not include a check of other data sources at proposed § 435.919(g)(3) for verification of these types of address updates, but we sought comment on whether we should require States to check available data sources. We did not receive any comments opposing this action, and we are including this requirement in this final rule because we believe it is in the best interests of beneficiaries for all States to check reliable data sources that would permit the immediate update of beneficiary contact information. Section § 435.919(f)(2)(ii)(A) of this final rule requires that if the in-State change of address is consistent with information from the State's Medicaid Enterprise System or a reliable data source, the State must update the beneficiary's case record and notify the beneficiary of the change. In such cases no further action is required. However, if the State is unable to confirm the new address information through the State's Medicaid Enterprise System or other reliable data source, under § 435.919(f)(2)(ii)(B) of this final rule, the State must make a good-faith effort to contact the beneficiary to verify the new address information. The requirements for making a good-faith effort are discussed later in this section.

In the September 2022 proposed rule, we proposed that when a State is unable to confirm an in-State change of address with a beneficiary, the State may not terminate the beneficiary's eligibility for failure to respond to a request to confirm the change (proposed § 435.919(f)(4)(i)); additionally, if the in-State change of address was provided by a reliable data source, the State must accept it and update the beneficiary's case record (proposed § 435.919(f)(4)(ii)). In this final rule, we revise and redesignate proposed § 435.919(f)(4)(i) and (ii) at § 435.919(f)(2)(ii)(C), which prohibits a State from terminating the coverage of an individual for failure to respond to a request from the State to confirm the information. Section 435.919(f)(2)(ii)(C) of this final rule also prohibits the State from using the information to update the beneficiary's case record, because the information subject to this provision was not obtained from a reliable data source, and it was not verified by the beneficiary.

The other type of address change requiring additional verification is an out-of-State address change. In the September 2022 proposed rule, at § 435.919(f)(2) and (3), we proposed to require States to contact a beneficiary by mail and using at least one alternative modality to verify an out-of-State forwarding address provided by USPS

when mail is returned to the State. Then at § 435.919(g)(3), we proposed to apply these same beneficiary contact requirements (proposed § 435.919(f)(2) and (3)) to out-of-State address changes provided by third-party data sources other than the NCOA database and contracted managed care plans. We did not receive any comments specific to beneficiary contacts required to confirm out-of-State address changes. In this final rule, at § 435.919(f)(3)(i) we revise and redesignate the requirements proposed at § 435.919(f)(2) and (3) and (g)(3) that States contact a beneficiary by mail and through at least one alternative modality to verify an out-of-State address update. As finalized, § 435.919(f)(3)(i) requires the State to make a good-faith effort to contact the beneficiary to confirm an out-of-State address change received from any third-party data source. The good-faith effort requirement is discussed in detail later in this section.

When a State is unable to reach a beneficiary to confirm the accuracy of updated out-of-State address information or to obtain additional information demonstrating that the beneficiary continues to meet State residency requirements, we proposed at § 435.919(f)(5) that the State must provide advance notice of termination and fair hearing rights consistent with 42 CFR part 431, subpart E. We are finalizing this policy as proposed; to do so, we revise and redesignate the language proposed at § 435.919(f)(5) at § 435.919(f)(3)(ii) of this final rule.

While the use of data sources other than USPS and contracted managed care plans does require a State to complete additional verification, we encourage States to continue existing data exchanges to obtain updated beneficiary address information and to test the reliability of existing data sources and other data sources identified by commenters. As CMS and States' experience with other sources of beneficiary contact information increases, we may learn of other sources that are also extremely reliable. If a State demonstrates that another such source of updated beneficiary contact information is reliable, § 435.919(f)(1)(iii)(D) of this final rule provides flexibility for the State, subject to approval by the Secretary, to treat updated contact information from such source in the same manner as other reliable data sources (§ 435.919(f)(1)(iii)(A) through (C)) are treated.

Comment: Several commenters encouraged CMS to either require or to encourage States to use all available data sources to verify addresses and contact information prior to terminating eligibility when a beneficiary's whereabouts cannot be confirmed. These commenters explained that requesting States to select only one data source, as proposed at § 435.919(f)(1)(iii), may be insufficient, as not all beneficiaries will, for example, receive benefits from a specified State agency or have a driver's license. Utilizing all available data sources would minimize unnecessary Medicaid coverage loss.

Response: We understand commenters' concerns about ensuring that States take sufficient action to attempt to locate a beneficiary whose whereabouts are unknown. In the September 2022 proposed rule at § 435.919(f)(1), we proposed to require that when a State receives returned mail with no forwarding address, the State must check its Medicaid Enterprise System, contracted managed care plans (if applicable), and at least one third-party data source for an updated address. We recognize that a single data source may not be sufficient, depending on the source, to locate a beneficiary whose whereabouts are unknown. However, as discussed previously, in this final rule we are requiring all States to utilize the reliable data sources described in § 435.919(f)(1)(iii). We believe these data sources will provide not only the greatest reliability but also include information on the largest number of Medicaid and CHIP beneficiaries of any available third-party data sources. While we are not requiring the use of additional data sources, we encourage States to use all available resources to locate a beneficiary whose whereabouts are unknown.

At § 435.919(f)(4)(i) and (ii) of this final rule, we are revising and redesignating the requirements proposed at § 435.919(f)(1), along with the requirements proposed at § 435.919(f)(2) and (3), for mail that is returned without a forwarding address. We require at § 435.919(f)(4)(i) of the final rule that when a State receives returned mail with no forwarding address, the State must check its Medicaid Enterprise System and the most recently available information from reliable data sources for additional contact information. If updated address information cannot be obtained and confirmed as reliable, then § 435.919(f)(4)(ii) requires the State to make a good-faith effort (as discussed later) to contact the beneficiary to obtain updated information. If a State is unable to identify and confirm a beneficiary's current address, the State must either move the beneficiary to a fee-for-service delivery system or take the necessary steps to terminate or suspend the beneficiary's coverage. At § 435.919(f)(4)(iii) of this final rule, we redesignate and finalize the requirements proposed at § 435.919(f)(6).

Comment: One commenter requested clarity on what would constitute a check of a third-party data source such as a contracted managed care plan. The commenter questioned whether a process, for example, in which the State obtains updated beneficiary contact information from its managed care plans on a recurring basis, would satisfy the requirement at proposed § 435.919(f)(1)(ii) to check managed care plans for updated address information whenever beneficiary mail is returned. Similarly, commenters recommended that requests for beneficiary contact information be sent to managed care plans in batch files, rather than individually, since responding to individual requests would require a significant amount of time and resources from the plans. One commenter recommended that States establish new processes to ensure that they do not accidentally override updated enrollee information received from managed care plans.

Response: We recognize that submitting an individual request to a managed care plan each time the State receives updated beneficiary address information may be unnecessarily burdensome, particularly if the process is not automated. We also understand that many States have established processes with contracted managed care plans to obtain updated beneficiary contact information on a regular basis, such as a daily, weekly, or monthly data exchange. We believe any of these options satisfies the requirement to check data sources for updated address information, which was proposed at § 435.919(f)(1) and is finalized at § 435.919(f)(1)(i) (establishing a process to obtain updated address information from reliable sources) and at § 435.919(f)(2)(ii) (checking reliable data sources to verify in-State address updates) and (f)(4)(i) (checking reliable data sources to obtain updated address information when whereabouts are unknown). A State may satisfy the requirement to verify in-State address updates (§ 435.919(f)(2)(ii)) and the requirement to obtain new address information when whereabouts are unknown (§ 435.919(f)(4)(i)), by making individual data requests to reliable data sources or by sending a batch of individual requests to a reliable data source on a regular basis, such as at the end of each day or week. Alternatively, States may satisfy this requirement by

establishing a process to receive regular updates (that is, daily, weekly, or monthly) from reliable data sources. We believe that establishing a process to receive regular updates strikes the best balance between minimizing the burden on States (as well as their contracted managed care plans) and ensuring that States have up-to-date beneficiary contact information when needed to contact a beneficiary, such as the beneficiary's next renewal or redetermination of eligibility following a change in circumstances.

Comment: We received many comments on the requirements proposed for contacting beneficiaries to confirm a change of address. At § 435.919(f)(2) and (g)(1)(ii), we proposed to require States to send the beneficiary a notice by mail at: the current address in the beneficiary's case record; the forwarding address, if provided for returned mail, or the new address obtained from a third-party data source; and any address identified by checking other data sources (required for returned mail only). Some commenters supported these proposed requirements, describing the requirement to send notices to both (or multiple) addresses as a critical step to protect the beneficiary's right to ensure that the information is correct before it becomes permanent.

While some commenters were supportive, many other commenters expressed concerns about the requirements for mailing notices to beneficiaries. Commenters were particularly concerned about the proposed requirement to send a notice to the address on file after mail sent to that address has been returned. They stated that such an approach would not be effective or efficient, and that it would add unnecessary time, and administrative and financial burden. A couple of commenters were concerned that the proposed approach would do the opposite of streamlining eligibility and enrollment, and one suggested that it contradicts the intent of the Paperwork Reduction Act of 1995, because it will generate twice as much mail to be processed when it is returned again to the agency undelivered.

Commenters reported concerns that ongoing paper and envelope shortages would be exacerbated by a requirement to send multiple paper notices, that it would increase the backlog of returned mail processing, that it would have a negative environmental impact, and that it would compound confusion and burden on beneficiaries who already receive a large volume of notices. In addition, several States reported that their systems do not have the functionality to hold (or send mail to) more than one beneficiary address; that manual intervention by workers would be necessary to add a second address; and that this process would significantly increase the risk of data input errors and lead to more misdirected notices. One State commenter explained that due to system limitations, they have developed a different process that is not consistent with CMS' proposed change, but they believe to be comparably effective.

At § 435.919(f)(3) and (g)(1)(iii), we proposed to require States to send at least two additional notices using one or more modalities besides mail, such as text message or email. Many commenters supported the proposed requirement for States to contact beneficiaries through other modalities, such as phone, email, or text message, when mail is returned, since this may increase their ability to reach eligible individuals. Several commenters noted that use of additional modalities puts greater protections in place to ensure that States are doing their due diligence to follow up when mail is returned. One commenter noted that traditional mail has proven to be vastly ineffective due to changes in address and delays in mail delivery, and one State commenter stated that they already attempt outreach to beneficiaries by telephone, in addition to sending a notice by mail, when mail is returned.

Other commenters expressed concerns about the financial, administrative, and time burden of contacting beneficiaries through multiple modalities. Several commenters stated that their States would require significant personnel resources for compliance, since possible automation of notices provided through other modalities would be limited and would likely require complex modifications to multiple systems. Some States reported that they would need to procure a Customer Relationship Management system, which would require years and significant State funds to implement. Other commenters were concerned that it may be impossible to send a beneficiary at least two additional notices by one or more modalities other than mail. The commenters stated that States may not have enough available contact information for a phone call, electronic notice, email, and/or text message, particularly if they only maintain email addresses for individuals who have elected to receive their notices electronically, which may result in a low contact success rate with a high cost.

A number of commenters recommended more State flexibility for contacting beneficiaries about returned mail and updated mailing addresses. Others suggested specific alternative approaches. Some supported a requirement for States to investigate other available addresses and send notice to those addresses. Others recommended limiting the total number of required attempts to two, for example, by sending one notice to the updated address and another notice through an additional modality other than mail. We also received comments recommending that the second notice be a State option or best practice, particularly in light of the reliability of forwarding addresses. Finally, some commenters recommended that CMS not mandate any specific outreach, but instead encourage States to make additional attempts to contact beneficiaries through additional modalities.

Response: We agree that when new address information is obtained from outside sources, which may not have verified the information in advance, it is important for States to take adequate steps to contact the beneficiary and ensure that the information is correct. We also understand the barriers and challenges raised by commenters regarding the proposed approaches for contacting beneficiaries by mail and through other modalities, and we recognize that some approaches will be easier to implement in some States than others. In this final rule, we seek to balance the likelihood of reaching a beneficiary with the significant increase in burden that multiple mailings and the use of multiple modalities would place on State Medicaid and CHIP agencies.

As discussed previously in this final rule, we believe updated addresses provided by the NCOA database and States' contracted managed care plans (when verified by the beneficiary) are extremely reliable. Therefore, we are finalizing a requirement at § 435.919(f)(2)(i) that States must accept in-State address updates from these sources as reliable, use the information to update the contact information in a beneficiary's case record without attempting to contact the beneficiary for additional verification, and notify the beneficiary of the update. We believe this change will reduce the number of additional beneficiary communications that are needed. However, we believe there are still a number of situations in which it is important for States to attempt to contact a beneficiary to confirm a change of address before updating the beneficiary's case record.

This includes situations in which the reliable third-party data indicates a potential change of State residency (that is, an out-of-State forwarding address), the change of address was provided by a third-party data source other than those considered reliable under § 435.919(f)(1)(iii) of this final rule, or mail is returned to the State without a forwarding address. Therefore at § 435.919(f)(2)(ii)(B), (f)(3)(i), (f)(4)(ii), and (f)(5) of this final rule, we revise and redesignate the beneficiary contact requirements proposed at § 435.919(f)(2) and (3) and (g)(1)(ii) and (iii). For the purpose of this final rule, we refer to these beneficiary contact requirements as a good-faith effort to contact beneficiaries to confirm address changes, and we define a good-faith effort at § 435.919(f)(5). The discussion that follows describes § 435.919(f)(5) in detail, including the redesignation and revisions to proposed § 435.919(f)(2) and (3) and (g)(1)(ii) and (iii).

In the September 2022 proposed rule, at § 435.919(f)(2), we proposed to require that whenever beneficiary mail is returned to the State by USPS, the State must attempt to contact the beneficiary by mail to either confirm the forwarding address or to obtain a new address. This included requirements to send a notice to the address currently on file in the beneficiary's case record, the forwarding address (if provided) and any other addresses identified by the agency. We proposed the same requirement at § 435.919(g)(1)(ii) for updated in-State address information obtained from the NCOA database or from a contracted managed care plan (provided the information was verified by the beneficiary), except the requirement to send a notice to other addresses identified by the agency. Finally, we proposed to apply the requirements at § 435.919(f)(2) to in-State address changes received from data sources other than USPS and contracted managed care plans and to out-of-State address changes received from any outside data source through a cross reference at proposed § 435.919(g)(3).

At § 435.919(f)(3) and (g)(1)(iii) we proposed to require that States send the beneficiary at least two notices, by one or more modalities other than mail, such as phone, electronic notice, email, or text message, to either confirm the forwarding address or to obtain a new address. Consistent with the requirements for mailing notices, we proposed to apply these requirements when beneficiary mail is returned, when the State obtains an updated in-State address from the NCOA database, and to other address updates through a cross-reference at § 435.919(g)(3).

In this final rule, we combine these requirements into a good-faith effort requirement to contact the beneficiary, which must include, at a minimum, at least two attempts to contact the beneficiary, using at least two different modalities, with a reasonable period of time between contact attempts. To permit a swift and seamless transition, we modelled the good-faith effort required by this final rule on the requirements established under section 6008(f)(2)(C) of the FFCRA, as amended by the CAA, 2023. As a condition for receiving the FFCRA's temporary FMAP increase, States were required to undertake a good-faith effort to contact beneficiaries using more than one modality before terminating eligibility on the basis of returned mail. In a State Health Official letter issued on January 27, 2023 (SHO# 23–002), we defined a good-faith effort to mean that the State (1) has a process in place to obtain up-to-date mailing addresses and additional contact information for all beneficiaries, and (2) attempts to reach a beneficiary whose mail is returned through at least two modalities using the most up-to-date contact information the State has for the individual.[15]

The September 2022 proposed rule would have required States to mail notices to all available beneficiary addresses, including the address currently on file, the forwarding address, and any other addresses obtained from other data sources. We agree with commenters that this proposed requirement was unnecessarily burdensome. In this final rule, we have eliminated the specific requirements for mailing notices to the old address, new address, and any other available to the agency. Instead, § 435.919(f)(5)(i)(A) requires the State to make at least two attempts to contact the beneficiary, and § 435.919(f)(5)(i)(B) requires the State to use at least two different modalities (such as mail, phone, email). For many beneficiaries, a mailed paper notice continues to be the best method of communication, and when the State receives an out-of-State forwarding address or obtains an updated in-State address, we would generally expect the State to mail a notice to that address as part of their good-faith effort, in accordance with this final rule. This approach provides States with flexibility, for example, to tailor their approach to specific types of beneficiaries and to utilize modalities that have proven most effective in reaching their beneficiaries.

We recognize that every individual's situation is different, and some beneficiaries may respond best to text messaging, internet-based messaging, or other electronic communication, while others may be more likely to respond to a phone call or a letter. We proposed to require, at § 435.919(f)(3)(i) that for a beneficiary who elected to receive electronic notices and communications in accordance with § 435.918, at least one communication attempt must be electronic, and any additional attempts must occur through a different modality. We are not finalizing this requirement; removing this proposed requirement from the final rule increases State flexibility, and current § 435.918(b) already requires States to communicate electronically, by posting notices to an individual's electronic account, when an individual elects to receive their notices electronically. We expect States to utilize the modalities that match individual beneficiary preferences as much as possible. For those beneficiaries who have requested electronic communications, we would generally expect at least one of the attempts to contact the beneficiary, as required at § 435.919(f)(5)(i), to be made using this modality unless the electronic communication is undeliverable. If the electronic communication is undeliverable, the State must utilize other modalities, if available, to fulfill this requirement.

Further, we proposed at § 435.919(f)(3)(ii) and (iii) that notices must be sent first to contact information in the beneficiary's case record, if available, and then using other contact information, but that the State may utilize any combination or order of modalities. To increase flexibility and permit States to establish the most effective processes given their unique circumstances, we are not finalizing these requirements. However, in making a good-faith effort to contact a beneficiary, we expect States to utilize the most up-to-date information available. For example, if a State receives a piece of returned mail with no forwarding address, and the contact information in the beneficiary's case record includes a mailing address and cell phone number provided 10 months ago, plus an email address that was updated one month ago, the State would be expected to attempt to contact the beneficiary by email and by phone or text.

We believe this requirement to make a good-faith effort to contact the beneficiary, with at least two attempts through two or more modalities, strikes

[15] *https://www.medicaid.gov/federal-policy-guidance/downloads/sho23002.pdf.*

the best balance of protecting coverage for eligible individuals without overburdening State agencies. We also recognize that States will not always have sufficient information to make two or more attempts through different modalities. At § 435.919(f)(5)(ii), we revised and redesignated the requirement proposed at § 435.919(f)(3)(v) that if the State does not have the necessary contact information to full the requirements of § 435.919(f)(5)(i) for a good-faith effort, the State must make a note of that fact in the beneficiary's case record.

Comment: One commenter supported the proposed requirement that when a State sends notice to a beneficiary to update their address, or confirm an updated address, the individual be provided with a reasonable period of time of 30 calendar days from the date the notice is sent to the beneficiary to verify the accuracy of the new contact information. Another commenter disagreed with the requirement to wait 30 calendar days to hear back from a beneficiary before acting on a change. One commenter reported that States often receive address changes that at are least six months old, creating very little risk that the individual incorrectly updated their address and did not realize the error in the intervening six months; in these cases, giving the beneficiary 30 days to respond would significantly delay the State's ability to update the address and not meaningfully increase the accuracy of the agency's contact information.

Response: We believe it is important to provide beneficiaries with adequate time to receive and respond to a request from the State. In this final rule, we revise and redesignate the requirement to provide beneficiaries with at least 30 days to verify the accuracy of new contact information, proposed at § 435.919(f)(3)(i) and (g)(1)(v), at § 435.919(f)(5)(i)(D) of this final rule. Section 435.919(f)(5)(i)(D) provides that when a State makes a good-faith effort to contact a beneficiary to confirm their updated address, the State must provide the beneficiary with at least 30 calendar days to respond to the request and either provide updated contact information or confirm the updated contact information obtained by the State. We note that when beneficiaries themselves provide updated contact information to the State, or when the State receives updated, in-State contact information from a reliable data source described in § 435.919(f)(1)(iii), the State is not required to separately verify the change with the beneficiary.

Comment: We received several comments regarding the use of data in States with combined eligibility systems, which may include Medicaid, SNAP, TANF, and other public benefit programs. One commenter questioned whether use of a combined eligibility system would automatically satisfy the requirement at proposed § 435.919(f)(1)(iii) to check at least one outside data source. Two commenters expressed concern about the use of other data sources in States with combined eligibility systems. One commenter noted that while the NCOA database, for example, may be an acceptable source for address verification for Medicaid, it may conflict with other programs' requirements and could have a significant impact on eligibility for other benefit programs.

Response: We recognize that utilizing a combined eligibility system requires navigating among different programs' eligibility requirements. Prior to this final rule, policy differences already existed between CMS programs and other State-administered health and human services programs, and States have reconciled differences over time to administer multiple programs together through a single system. States have a number of options for reconciling different program requirements for this purpose. They may, for example, adopt options or flexibilities that permit alignment of program rules, establish separate processes to allow separate rules to be applied to each program, or determine that information collected, or decisions made, by one program can be applied to the other program. The options available will differ by program, by State and Federal requirements, and by the specific nature and design of State processes.

In this rule, we are finalizing a requirement that States must obtain data from sources defined as reliable for updating beneficiary contact information. At § 435.919(f)(1)(iii), we define the following four data sources as reliable: mail returned to the State agency by the USPS, the NCOA database, managed care plans, and other entities under contract with the State, and other data sources identified by the State and approved by the Secretary. States may seek approval from the Secretary to deem data provided by SNAP, TANF, or another public benefit program or agency as reliable for updating beneficiary contact information. In such cases, the State must demonstrate that the information was received directly from, or verified by, the beneficiary whose contact information will be updated or by an individual with authority to provide information to the State on the beneficiary's behalf. Such individuals would include an adult who is in the applicant's household, as defined in § 435.603(f), family, as defined at 26 U.S.C. 36B(d)(1), or an authorized representative. Additional information on obtaining Secretarial approval for this purpose will be made available through subregulatory guidance.

We are not finalizing the requirement at proposed § 435.919(f)(1)(iii) to check at least one outside data source, so the commenter's question about whether use of a combined eligibility system would automatically satisfy the requirement to check an outside data source is no longer relevant for this rule. However, States are permitted, as described at § 435.919(f)(1)(ii) to establish processes to obtain updated address information from data sources other than those identified as reliable and described in § 435.919(f)(1)(iii), including data provided by SNAP, TANF, or other public benefit programs. States must act on information obtained from these data sources in accordance with § 435.919(f)(2) and (3).

Comment: Several commenters opposed the proposed requirement that when sending notices through one or more modalities, the notices be issued a minimum of 3 days apart. The commenters stated that this would be operationally difficult for States to monitor and track and would create significant additional work without a clear added benefit. The commenters recommended State flexibility with respect to the timing of the communications. Other commenters supported the requirement to schedule at least 3 business days between the first and the last attempt to contact a beneficiary, explaining that such additional time may permit some beneficiaries to overcome challenges they experienced in responding to the first attempt.

Response: We appreciate the input. We agree that it is important to provide a reasonable period of time for a beneficiary to respond between the first and the last contact attempts. However, we also understand commenters' concerns that 3 days may not be the best timeframe for all situations and that such a specific timeframe may be difficult to implement. While we believe 3 days is a reasonable period of time, we believe other timeframes may also be considered reasonable. As such, we are revising and redesignating proposed § 435.919(f)(3)(iv) at § 435.919(f)(5)(i)(C), which requires that a good-faith effort to contact a beneficiary includes a reasonable period of time between contact attempts.

Comment: One commenter recommended that before updating a

mailing address based on secondary information, States use the new address as an alternative address or consider communicating only non-sensitive information at the new address until the beneficiary has been successfully contacted and has confirmed the update. The commenter explained that such an approach would mitigate privacy concerns if personal health information was inadvertently sent to the individual at an incorrect address.

Response: We agree that protecting the privacy of Medicaid and CHIP beneficiaries is critical. That is why we proposed at § 435.919(f)(2) and (3) and (g)(1) to require that States contact beneficiaries prior to making updates to their contact information based on information provided by an outside data source that has not been determined to be extremely reliable. We note that the reliable data sources identified in § 435.919(f)(1)(iii) of this final rule all provide information that was either obtained from or confirmed by the beneficiary. Except in the case of updated in-State address information received from a reliable data source, we are finalizing the requirement that the State attempt to contact a beneficiary to confirm an in-State change of address (§ 435.919(f)(2)(ii)(B)) and an out-of-State change of address (§ 435.919(f)(3)(i)) provided by a third-party data source.

Comment: One commenter expressed concern that States would not be permitted to send electronic notices to individuals who do not expressly consent to receive their notices electronically.

Response: States are required to provide timely and adequate written notice to beneficiaries of any decisions affecting their eligibility, as described at current § 435.917. If an individual elects to receive such notices electronically, the use of electronic notices must comply with § 435.918(b). This regulatory requirement does not prohibit a State from attempting to reach a beneficiary through a secure electronic communication when the State is unable to deliver the notice by mail because a beneficiary's mailing address is no longer correct.

Comment: One commenter expressed concerns surrounding managed care plans' ability to utilize two different effective contact modalities given current restrictions under the Telephone Consumer Protection Act (TCPA). The commenter requested clear guidance on the role of managed care plans in these outreach efforts.

Response: We believe managed care plans are a particularly effective source of reliable contact information for beneficiaries. That is why we are finalizing the requirement proposed at § 435.919(f)(1)(ii), revised and redesignated at § 435.919(f)(1)(i) that States establish a process to obtain and act on updated information available through contracted managed care plans. While managed care plans are important partners to State Medicaid and CHIP agencies, the regulatory requirement finalized at § 435.919(f) does not require action by contracted managed care plans. State agencies must make a good-faith effort to contact their beneficiaries to verify a change of address. While § 435.919(f)(1)(i) requires States to work with contracted managed care plans to obtain updated beneficiary contact information, the managed care plans themselves are not obligated to conduct any outreach under these requirements. Because the requirements established by the TCPA fall outside our purview, we are not able to provide guidance on this statute or compliance with its terms. For additional information on the TCPA and its implications for Medicaid and CHIP agencies, we refer readers to guidance issued by the Federal Communications Commission at *https://www.fcc.gov/document/fcc-provides-guidance-enable-critical-health-care-coverage-calls.*

Comment: Many commenters noted the importance of using multiple modalities to reach beneficiaries in different types of situations. Several commenters expressed concerns about States' ability to contact beneficiaries who may be housing insecure and do not maintain a consistent address, because reliance on mailed notices will have a disproportionately negative impact on such individuals, particularly individuals experiencing homelessness. One commenter explained that text messages and email are likely preferred methods of contact for Medicaid beneficiaries due to the high prevalence of smartphone use among this population. Other commenters noted that beneficiaries have varied access to different modes of communication, and they are likely to have different levels of ability and levels of comfort utilizing various communication modalities. Examples provided by commenters include beneficiaries in rural areas who may have limited broadband access and cellphone coverage, older adults and people with disabilities who may temporarily lose access to mail while they are hospitalized or receiving skilled nursing care in a facility, and individuals with disabilities who may have unique accessibility issues across different modes of communication.

One commenter recommended that beneficiary preferences be considered when determining the best contact method for a given beneficiary, as some may prefer electronic notices, some may opt for paper, and others may prefer to speak to a caseworker, especially if they have questions. Another commenter recommended that applications and renewal forms include options to indicate when an individual is experiencing unstable housing and must be contacted through methods other than mail. A third commenter suggested that we provide States with resources and technical assistance to ensure they are equipped to communicate with beneficiaries experiencing homelessness, including via text messaging.

Response: We agree that different modes of communication are likely to be more effective for some beneficiaries than others and that access to alternative forms of communication is particularly important for individuals who may not receive mail regularly, such as those who are housing insecure. The model, single streamlined application described at § 435.907(b)(1) permits applicants to leave the home address field blank if they are experiencing unstable housing, and applicants and beneficiaries are always permitted to provide an alternative mailing address, such as the address of a relative, friend, community-based organization, or post office, among others. In addition, every applicant and beneficiary currently have the right under existing regulations (see § 435.918) to elect to receive communications electronically. We will continue to consider additional opportunities, including potential changes to the single, streamlined application, to assist States in communicating with different types of individuals who may have different communication needs. We remind States that communications with individuals with limited English proficiency and individuals with disabilities must be accessible, as discussed previously.

Comment: One commenter requested clarification about whether States are required to act on address changes reported by third-party entities that are not considered by the State to be reliable.

Response: Other than the data sources identified as reliable in § 435.919(f)(1)(iii) of this final rule—the agency's contracted managed care plans, the NCOA database, USPS returned mail, and any other source identified by the State and approved by the Secretary—States are not required to establish processes for obtaining updated address information from any

other specific data sources. Each State agency has flexibility to determine which data sources will be most effective for use in their own State. Address information obtained from any data source other than those identified as reliable in § 435.919(f)(1)(iii) must be verified by the beneficiary.

Comment: Most commenters supported the proposed requirement at § 435.919(f)(4)(i) that when beneficiary mail is returned to the State and the State is unable to confirm a beneficiary's in-State forwarding address, the State may not terminate the beneficiary's eligibility for failure to respond.

Response: We agree that failure to respond to a request to confirm a change of address is not a valid reason for terminating a beneficiary's eligibility. We are finalizing this requirement as proposed, except that we have moved the proposed provision to § 435.919(f)(2)(ii)(C) of this final rule and applied it only to in-State address updates from third-party sources other than those defined as reliable at § 435.919(f)(1)(iii). When the State receives an in-State address change from the USPS, either via returned mail or from the NCOA database, or from a contracted managed care plan that obtained the information directly from the beneficiary or verified it with the beneficiary, § 435.919(f)(2)(i) requires the State to accept the change, update the beneficiary's case record with the information and then notify the beneficiary of the change. A beneficiary does not need to respond to reconfirm the information provided by a reliable data source.

Comment: One commenter requested clarification about the prohibition on terminating Medicaid eligibility when a beneficiary fails to respond to a request to confirm an in-State forwarding address. The commenter was unclear about whether this requirement was limited to only circumstances in which the change of address is the only change or whether it also applies when a State attempts to contact a beneficiary to request information about a change that does impact the individual's eligibility, such as income.

Response: Section § 435.919(f)(2)(ii)(C) of this final rule, prohibits a State from terminating an individual's coverage for failure to respond to a request from the State to confirm their address or State residency. This requirement applies only to the request to confirm the change of address. For example, a State receives notification through a monthly data exchange with SNAP that a beneficiary's address has changed to a new in-State address. In accordance with § 435.919(f)(2)(ii)(A) of this final rule, the State checks reliable data sources but is unable to confirm the beneficiary's updated address. The State therefore mails a notice to the beneficiary and calls the beneficiary at the phone number in the beneficiary's case record to request confirmation of the change of address. If the beneficiary does not respond to either request, the State may not terminate the beneficiary's eligibility in accordance with § 435.919(f)(2)(ii)(C) of this final rule. However, if the State receives information from the SNAP agency both that the beneficiary has moved and that their income has increased beyond the income standard for Medicaid, the outcome may be different. In this case, the State would need to contact the beneficiary in accordance with § 435.919(f)(2)(ii) to confirm the change of address, and in accordance with § 435.919(b)(4) to verify or dispute the income information. After following these steps, if the beneficiary does not respond the State's outreach, then the State may send advance notice of termination and fair hearing rights, in accordance with § 435.917 and 42 CFR part 431, subpart E, because it cannot confirm that the beneficiary remains income eligible.

Comment: We received one comment urging CMS to require States to provide advance notice, at a beneficiary's last known address or through electronic means, before suspending or terminating eligibility because a beneficiary's whereabouts are unknown.

Response: The circumstances in which Medicaid's notice and fair hearing rights apply are set forth in 42 CFR part 431, subpart E. Section 431.213 provides for a series of exceptions to the requirement to provide advance notice; current § 431.213(d) permits a State to send notice of an adverse action not later than the date of the action when a beneficiary's whereabouts are unknown and the post office returns mail with no forwarding address. It also refers to current § 431.231(d) for the procedure for when beneficiaries whereabouts become unknown. In the preamble to the September 2022 proposed rule, we proposed to revise and redesignate § 431.231(d) at proposed § 435.919(f)(6) and to update the reference to § 431.231(d) in current § 431.213(d). However, we did not carry these changes over to the proposed regulatory text correctly, and the references to §§ 431.213(d) and 431.231(d) were switched. The requirement for States to provide advance notice and fair hearing rights, and the existing exception at § 431.213(d) permitting the State to send notice no later than the date of termination or suspension when a beneficiary's whereabouts are unknown, are not impacted by this final rule. However, we are finalizing the proposed change to revise and redesignate § 431.231(d). In this final rule, we remove and reserve paragraph (d) of § 431.231, which requires that any discontinued services be reinstated if a beneficiary's whereabouts become known during the time that beneficiary would have remained eligible for services. Paragraph (f)(4)(iii) of this final rule describes the procedures a State must follow when a beneficiary's whereabouts are unknown, including the requirement to reinstate coverage if the beneficiary's whereabouts become known.

We understand the commenter's concerns about ensuring that beneficiaries receive advance notice of any adverse actions. We believe the changes finalized in this rule will reduce the number of beneficiaries whose whereabouts remain unknown and who cannot be reached for notification. While we are not making any policy changes to the exception at § 431.213(d), we will continue to seek new alternatives and will consider making a change in future rulemaking.

Comment: We received several comments on proposed § 435.919(f)(5), which would require States to terminate the eligibility of a beneficiary if they are unable to contact the beneficiary following the return of mail with an out-of-State forwarding address. Several commenters specifically supported this proposed requirement. They noted that beneficiaries must first be given proper notice and the opportunity to verify or dispute the out-of-State address, and the State must provide advance notice of termination and fair hearing rights. Two commenters recommended that no disenrollment action be taken due to returned mail, since it does not necessarily indicate that a beneficiary has moved. Another commenter recommended that in lieu of disenrollment, States be given the option to retain eligibility for such beneficiaries and transition them to fee-for-service care as opposed to keeping them enrolled in a managed care plan and continuing to make capitation payments.

Response: We believe it is appropriate for States to terminate the eligibility of beneficiaries when the State has information indicating that the beneficiary no longer meets all eligibility requirements, in this case State residency, and the beneficiary does not respond to requests from the State to verify continued eligibility. At

§ 435.919(f)(3)(ii) of this final rule, we are finalizing the requirement proposed at § 435.919(f)(5) to terminate eligibility in such cases; States must provide advance notice and fair hearing rights in accordance with § 435.917 and 42 CFR part 431, subpart E.

We appreciate commenters' interest in keeping beneficiaries enrolled. However, we do not believe it is appropriate to maintain the eligibility of a beneficiary when the State has information indicating that the individual no longer meets the State's residency requirement, regardless of the delivery system in which the individual is enrolled. An individual cannot have a different eligibility determination in a managed care versus a fee-for-service delivery system. We believe the commenter's recommendation to transition beneficiaries from managed care to fee-for-service was intended to permit States to keep beneficiaries enrolled, in case they respond later to confirm continued State residency, while at the same time protecting the State from paying for medical assistance while their eligibility status is unclear. Changing the delivery system through which a beneficiary receives medical assistance is not an appropriate way to resolve an eligibility issue. However, we note that States may achieve a similar result through use of a reconsideration period. As described at § 435.919(d) of this final rule, when the State receives information indicating that a beneficiary experienced a change in circumstances that impacts eligibility, and the beneficiary fails to respond to the State with information indicating continued eligibility, the State must move forward to terminate eligibility and provide the individual with a reconsideration period of at least 90 days. If the individual subsequently submits information indicating continued eligibility within 90 days after the date of termination, or a longer period elected by the State, the State must reconsider the individual's eligibility without requiring a new application.

Comment: We received a number of comments opposing proposed § 457.344(f)(5). In States in which CHIP coverage is not provided statewide, we proposed to apply the requirements for out-of-State returned mail when mail is returned with an out-of-county forwarding address and CHIP coverage is not available in the county to which the enrollee's mail is being forwarded. Commenters were concerned that such individuals' eligibility would be terminated without considering whether the individual may be eligible for other Medicaid or CHIP coverage or for assistance purchasing a qualified health plan through the State's Marketplace. They recommended that the State proceed with determining eligibility for other insurance affordability programs, sending a combined notice, and transferring the individual's account in accordance with §§ 435.1200 and 457.350.

Response: We appreciate the points raised by commenters about protecting access to coverage for CHIP enrollees who move but continue to reside within the same State. We also recognize that while States are permitted to limit their CHIP coverage to specific geographic areas within the State, only a very small number of States have chosen to limit the program's Statewide availability. As such, we do not believe it is necessary to establish a special requirement for handling mail returned with an in-State address in the limited cases in which CHIP is not available Statewide. The requirement finalized at § 457.344(f)(2) for handling an in-State change of address will apply to all CHIPs. When a change of address is provided by a reliable data source, § 457.344(f)(2) of this final rule requires the State to accept and update the address in the enrollee's case record. When applying this requirement in a State that does not provide Statewide coverage, if the change would impact an individual's CHIP eligibility, we would expect the State to first attempt to contact the beneficiary to confirm the change of address as they would with any other reported change impacting eligibility. If the State is unable to reach the enrollee to confirm the change, the State must act on the change. In cases where a change of address would result in ineligibility for CHIP, before terminating enrollment, the State must screen the individual for eligibility for other Medicaid or CHIP coverage, and if the individual is no longer eligible for CHIP and is not eligible for Medicaid, the State must consider the individual's potential eligibility for assistance through the State's Marketplace in accordance with § 457.350. If the individual is potentially eligible for coverage through the Marketplace, their account must be transferred to the Marketplace in accordance with § 457.350.

Comment: One commenter expressed concern that the changes proposed with respect to returned mail will likely lead to prolonged delays in assessing enrollees' eligibility. Another commenter stated that from a member perspective, the increased outreach requirements that must be performed by the agency, such as the requirement to perform outreach using at least two modalities, may impact timely receipt of notifications, increasing unnecessary churn.

Response: We do not agree that the proposed returned mail changes will lead to delays in assessing enrollees' eligibility. In fact, we believe these requirements will facilitate better communication with beneficiaries and reduce delays in redetermining their eligibility at regular renewals or when the State receives information regarding a change in circumstances that may impact a beneficiary's eligibility. We believe that returned mail results in a significant number of beneficiaries being terminated from coverage, even though they continue to meet all eligibility requirements, because many States historically have not taken reasonable steps to locate them. Returned mail with an in-State forwarding address does not indicate a potential change that may result in ineligibility. While an out-of-State or no forwarding address does indicate a potential change in circumstances with respect to State residency, it is critical to maintaining continuity of coverage for eligible individuals that States attempt to confirm the accuracy of the information before acting on it, including efforts to locate the individual to obtain or confirm their new address.

After considering the comments, we are finalizing the returned mail requirements with modification as discussed. Because the effect of this change is specific to updating beneficiaries' case files with updated address information, primarily for the purpose of contacting beneficiaries with information about their case, we note that this provision operates independently from the other provisions of this final rule.

5. Transitions Between Medicaid, CHIP and BHP Agencies (42 CFR 431.10, 435.1200, 457.340, 457.348, 457.350, and 600.330)

We proposed to revise Medicaid regulations at §§ 431.10 and 435.1200 and CHIP regulations at §§ 457.340, 457.348, and 457.350 to improve coverage transitions between Medicaid and separate CHIPs. The proposed changes seek to reduce and prevent unnecessary gaps in coverage for individuals transitioning between these programs, and to make the transitions process more seamless for families. The proposed changes would require Medicaid and separate CHIPs to make determinations of eligibility on behalf of the other program; to accept determinations of eligibility made by these programs; to transition individuals to the insurance affordability program for which they are determined eligible

or potentially eligible based on available data; and for Medicaid and separate CHIP agencies to provide a single, combined notice to all members of a household with information about each individual's eligibility status for each applicable insurance affordability program. We proposed technical changes to BHP regulations at § 600.330, to maintain the current policy for that program. We sought comment on whether it is appropriate and feasible to apply the proposed changes for seamless transitions between Medicaid and separate CHIPs to coverage transitions between Medicaid, separate CHIPs, and BHPs, but we did not receive any specific comments on the appropriateness or feasibility of applying the specific transitions requirements to BHPs. Therefore, we are not making changes to § 600.330, and are finalizing this section as proposed. BHPs must continue to fulfill the requirements of § 435.1200(d), (e)(1)(ii), and (e)(3) and, if applicable, § 600.330(c).

Comment: Many commenters provided overall support for the provisions in the September 2022 proposed rule to improve transitions in coverage between Medicaid and separate CHIPs. Commenters indicated that the proposed changes would help to prevent unnecessary churn between insurance affordability programs; reduce gaps in coverage as beneficiaries move between programs; improve timeliness for State agencies to transition beneficiaries' coverage; and reduce burden for families throughout the renewal and transition processes.

Response: As noted by commenters, we believe these changes will help to ensure a more streamlined process for transitioning beneficiaries between insurance affordability programs, reduce gaps in coverage during these transitions, and improve the renewal and transitions experience for beneficiaries. As such, we are finalizing as proposed the changes as set forth in proposed §§ 435.1200, 457.340, 457.348, and 600.330 without revision. We are making one change to proposed § 457.350, in paragraph (b)(1)(ii) of that section, to include new language that clarifies that information provided on the application or renewal form by or on behalf of the beneficiary includes information obtained through trusted electronic data sources. Aside from this change to paragraph (b)(1)(ii) of the section, we are finalizing § 457.350 as proposed.

Comment: Numerous commenters expressed support for provisions in § 435.1200(e) of the September 2022 proposed rule to require Medicaid agencies to make determinations of eligibility for their State's separate CHIP and proposed § 457.348 to require separate CHIPs to accept determinations of eligibility made by their State's Medicaid agency. Commenters noted that these changes will ensure continuity of coverage for individuals transitioning from Medicaid to a separate CHIP. Some commenters provided suggestions for CMS on how to implement these changes in order to minimize barriers to accessing care when individuals are transitioned from Medicaid to a separate CHIP. Several commenters encouraged CMS to require States to effectuate separate CHIP coverage immediately after an eligibility determination is made by Medicaid, and permit plan-selection and collection of premiums and enrollment fees (if imposed) for the separate CHIP post-enrollment. Similarly, other commenters suggested that CMS require States to apply a 30-day premium grace period for the first month of enrollment after a transition in coverage from Medicaid to a separate CHIP. Another commenter requested that CMS encourage States to develop a gradual phase-out of benefits from Medicaid and graduated co-payments in separate CHIPs when individuals are transitioned from Medicaid to a separate CHIP.

Response: We appreciate commenters' support of our proposal to require Medicaid agencies to make eligibility determinations on behalf of separate CHIPs and agree that this change will help to ensure beneficiaries retain coverage and access to care through transitions from Medicaid to a separate CHIP. We are finalizing §§ 435.1200(e) and 457.348 as proposed to effectuate this requirement. We thank commenters for offering suggestions for implementation of this requirement. We acknowledge that adopting the recommendations to require a 30-day premium grace period; collect initial premiums and enrollment fees post-enrollment; and initiate graduated copayments in separate CHIPs would reduce barriers for individuals to access care as they transition to a separate CHIP from Medicaid. We note that the current regulation at § 457.340(g), which is not revised in this final rule, requires States to develop a method for determining the effective date of separate CHIP eligibility. This provision provides States with the flexibility to select any reasonable method that supports coordinated transitions of children between a State's separate CHIP and other insurance affordability programs without creating gaps or overlaps in coverage. We believe States with premiums and enrollment fees in their separate CHIPs could prevent potential gaps in coverage and delays in effectuating separate CHIP coverage for individuals transitioning from Medicaid by leveraging the flexibility afforded under existing authority at § 457.340(g). For example, to address commenters' concerns about enrollment fees and premiums creating potential gaps in coverage as individuals transition from Medicaid to a separate CHIP, we encourage States to waive premiums for the first month of separate CHIP coverage. We also acknowledge that post-enrollment plan-selection for separate CHIPs would help to reduce delays for individuals to access care as they are transitioned to a separate CHIP from Medicaid. Several States with managed care delivery systems in their separate CHIP provide services to newly enrolled individuals through fee-for-service arrangements temporarily before their managed care plan selection/assignment is finalized. This strategy helps to ensure that newly enrolled individuals can receive needed care before they have been assigned to a specific managed care plan. We encourage States with managed care delivery systems in their separate CHIP to consider this or a similar approach to ensure newly enrolled beneficiaries are able to access needed separate CHIP services prior to plan-assignment.

Comment: Numerous commenters expressed support for the requirements for separate CHIP agencies to make eligibility determinations on behalf of Medicaid as outlined in § 457.350(b) of the September 2022 proposed rule, and for Medicaid to accept determinations of eligibility made by the separate CHIP agency as proposed at § 435.1200. Commenters noted that these changes would improve coordination between Medicaid and separate CHIPs in conducting eligibility determinations and transitioning individuals between programs. A few commenters expressed concern that inaccurate or incomplete eligibility determinations could be made by separate CHIPs that use different methodologies to assess eligibility than Medicaid. A commenter also recommended that CMS require Medicaid programs to supervise separate CHIPs and other insurance affordability programs in determining Medicaid eligibility in States that do not use a shared eligibility service for Medicaid, their separate CHIP, and other insurance affordability programs.

Response: We thank commenters for their support of the proposed requirements to permit separate CHIPs to make determinations of eligibility on

behalf of Medicaid and agree that these changes will support alignment in separate CHIPs and Medicaid to conduct eligibility determinations and transitions between insurance affordability programs as seamlessly as possible. We appreciate commenters' recommendations to ensure that accurate Medicaid eligibility determinations are made by separate CHIPs. We note that State Medicaid agencies are not required to accept eligibility determinations that are not made on the basis of MAGI and that proposed § 435.1200(b)(4) provides Medicaid agencies with several options for accepting determinations of eligibility based on MAGI that are made by separate CHIPs, which we are finalizing without revision. We believe this approach provides the State Medicaid agency with the ability to exercise appropriate oversight over MAGI-based eligibility determinations for Medicaid. For instances when separate CHIPs do not have sufficient information to make determinations of eligibility for Medicaid, such as Medicaid eligibility on a non-MAGI basis, proposed § 457.350(e) directs separate CHIPs to make a determination of potential Medicaid eligibility and transfer the account to the State Medicaid agency to make a final determination.

Comment: Another commenter indicated that potential increases in Medicaid enrollment as a result of permitting separate CHIPs to determine eligibility on behalf of Medicaid could strain dental provider capacity to care for additional children in Medicaid and urged CMS to expand dental provider participation in Medicaid to meet the oral health care needs of a larger eligible Medicaid population.

Response: We acknowledge commenters' request for us to expand dental provider participation in Medicaid to ensure adequate provider capacity to administer oral health care services to a potentially larger Medicaid population as a result of these changes. However, changes related to Medicaid provider participation requirements are outside the scope of this final rule. Therefore, we are finalizing requirements at § 435.1200 for Medicaid and § 457.350(b) for separate CHIPs as proposed.

Comment: Many commenters offered support for the proposed requirements in §§ 435.1200(h)(1) and 457.340(f) that State Medicaid and separate CHIP agencies provide households with a single combined notice to indicate changes in beneficiaries' eligibility and coverage under Medicaid, separate CHIPs, BHPs, and an Exchange. Commenters noted that the use of a combined notice for all insurance affordability programs will ensure a more seamless and less burdensome process for renewals and transitions between programs for States and beneficiaries.

Response: We thank the commenters for their support to require Medicaid and separate CHIP agencies to provide a single combined notice with information about Medicaid, separate CHIP, BHP, and Exchange coverage. We agree that issuing one notice to families about eligibility and ineligibility information for all insurance affordability programs would simplify the process to inform families about changes in coverage.

Comment: A few commenters recommended that CMS explicitly require the content of combined notices to include information about additional steps for individuals to effectuate coverage, such as plan selection and premium requirements.

Response: We appreciate commenters' concerns about combined notices including detailed information for families about what they need to do to effectuate their Medicaid or separate CHIP coverage. We are maintaining current requirements for content of eligibility notices to applicants and beneficiaries outlined in existing § 435.917(b) for Medicaid and § 457.340(e) for separate CHIP, which include information about obtaining benefits and cost sharing requirements.

Comment: One commenter encouraged CMS to make conforming changes to the definition of combined notices for Medicaid in § 435.4, and to § 457.340(f) for separate CHIPs to align these sections with the changes for combined notices included in proposed § 435.1200(h)(1).

Response: We agree with commenters' recommendation that the definition of combined notices in § 435.4 be consistent with proposed changes for combined notices in § 435.1200(h)(1). We note that the proposed § 435.1200(h)(1) cross-references the definition of combined eligibility notices in § 435.4 for Medicaid. Additionally, corresponding changes for separate CHIPs in § 457.340(f) cross-reference the definition of combined eligibility notices in § 457.10. We believe the existing definitions of combined eligibility notices in current §§ 435.4 and 457.10 adequately account for changes in proposed §§ 435.1200(h)(1) and 457.340(f), and these current definitions will be maintained without revision. In response to comments about making conforming changes to § 457.340(f) to align with proposed changes for combined notices in § 435.1200(h)(1), we note that conforming changes were proposed in § 457.340(f) for separate CHIPs to align with changes proposed in § 435.1200(h)(1) for Medicaid. As such, we are finalizing §§ 435.1200(h)(1) and 457.340(f) as proposed to require State Medicaid and separate CHIP agencies to use a single, combined notice to provide information about Medicaid, separate CHIP, BHP, and Exchange eligibility and ineligibility determinations.

Comment: Some commenters requested that CMS specify scenarios when a combined notice for a full family would not be required.

Response: In response to commenter questions about situations when a single combined notice for a full family will not be required, we clarify that current § 435.1200(h)(1), redesignated as § 435.1200(h)(1)(ii) in this final rule, requires States to issue a single combined notice to the maximum extent feasible for all members of a household that are included on the same application or renewal form, regardless of individual member differences in program eligibility. A situation that could result in multiple notices for a single household is when multiple members of a household are included on an application for coverage, and one or more individuals are determined to be potentially eligible for different programs for which a final eligibility determination is needed. In this scenario, individuals that are assessed as potentially eligible may receive an additional, separate notice once the program they are potentially eligible for makes a final eligibility determination. For example, a parent and their child who are members of the same household submit one application for health coverage. A notice is provided to the household, indicating that the child is eligible for Medicaid, while the parent is potentially eligible for Exchange coverage. The parent's information is sent to the Exchange to make a final eligibility determination. The household would then receive a second, separate notice with information about the parent's final eligibility determination made by the Exchange.

Comment: Several commenters responded to CMS' request for comment in section II.B.5. of the September 2022 proposed rule about the appropriateness of requiring BHP agencies and Exchanges to issue single combined notices. These commenters encouraged CMS to require that combined notices be provided by all insurance affordability programs and that the combined notices include information

pertaining to eligibility and ineligibility for Medicaid, separate CHIP, BHP, and Exchange coverage. CMS also sought comment about the feasibility for BHP agencies and Exchanges to implement the combined notice requirements proposed for Medicaid and separate CHIPs. However, comments did not address CMS' question about the feasibility for BHPs and Exchanges to implement the combined notice requirements.

Response: While we acknowledge the recommendation of some commenters to require BHP agencies and the Exchanges to issue combined eligibility notices, we are concerned about the feasibility of State implementation, a point on which we did not receive any comments. Additionally, requirements for Exchange notices are outside of the scope of this rulemaking. Therefore, while we encourage State BHP agencies with the capability to issue combined notices to do so, we decline commenters' suggestion to require this of BHPs and Exchanges in the final rule.

Comment: Another commenter requested that CMS permit individuals transitioning from Medicaid to an Exchange to seamlessly transition to an Exchange plan that is affiliated with the individual's existing Medicaid plan, to promote continuity of care.

Response: We agree with commenters that maintaining continuity of care is an important element to ensure seamless transitions between insurance affordability programs. However, this rule does not address plan selection through the Exchanges. We understand that some States may have agreements with the same health plans across all insurance affordability programs. However, this is not always the case. To the extent that health plans do align across insurance affordability programs in a State, we encourage States to assign individuals to health plans in Medicaid or a separate CHIP that are affiliated with the individual's existing health plan to ensure continuity of care, as long as they follow the rules for plan enrollment in §§ 438.54 and 457.1210(a).

After considering all comments, we are finalizing the proposed changes to Medicaid regulations at §§ 431.10 and 435.1200 and CHIP regulations at §§ 457.340, 457.348, and 457.350 with modifications as discussed previously in this final rule. Because the effect of this change is specific to the process to prevent termination of eligible beneficiaries who should be transitioned between Medicaid and CHIP, we note that this provision operates independently from the other provisions of this final rule.

6. Optional Group for Reasonable Classification of Individuals Under 21 Who Meet Criteria for Another Optional Group (§§ 435.223 and 435.601)

We proposed to add a new regulation at § 435.223, ''Other optional eligibility for reasonable classifications of children under 21,'' to codify in the regulations the option for States to provide coverage to individuals under age 21, 20, 19, or 18, or to reasonable classifications of such individuals, who meet the requirements of any clause of section 1902(a)(10)(A)(ii) of the Act. We further confirmed in the proposed rule (87 FR 54800) that States, in determining eligibility under the proposed § 435.223, could except from MAGI financial eligibility methodologies those individuals who are described in § 435.603(j). We explained that the current section of our regulations for optional categorically needy coverage of reasonable classifications of children at § 435.222 does not reflect the full scope of authority States have under section 1902(a)(10)(A)(ii) of the Act to cover different groups of individuals under age 21 or reasonable classifications of such individuals, as the terms of § 435.222 apply only to individuals who are eligible under section 1902(a)(10)(A)(ii)(I) (relating to individuals who meet the eligibility requirements for, but are not receiving, cash assistance) or (IV) of the Act (relating to individuals who meet the eligibility requirements for cash assistance or would but for their institutionalization) and whose financial eligibility is determined using MAGI-based methodologies.

We also proposed changes to § 435.601(f)(1) to provide that, in the case of individuals for whom the cash assistance program most closely categorically-related to the individual's status is Aid to Families and Dependent Children (AFDC) (that is, individuals under age 21, pregnant individuals and parents and other caretaker relatives who are exempt from MAGI-based methodologies and to whom, as we explained in the proposed rule, AFDC methodologies generally still apply), the agency may apply either (1) the financial methodologies of the AFDC program, or (2) the MAGI-based methodologies defined in § 435.603, except to the extent that MAGI-based methods conflict with the terms of § 435.602 (relating to financial responsibility of relatives and other individuals).

We also proposed to change the heading of § 435.222, to reflect that it would no longer be the exclusive regulation relating to reasonable classifications of children and proposed certain additional technical changes to § 435.601(b)(2) and (d)(1) in accordance with our proposed amendment to § 435.601(f).

Comment: We received several comments on these proposals, all of which expressed support. Commenters noted that the proposals would increase State flexibility and add an eligibility pathway for non-MAGI individuals under age 21.

Response: We appreciate the commenters' support, and we are finalizing §§ 435.223 and 435.601(b)(2), (d), and (f)(1)(i) and (ii) as proposed.

We are making an additional change to the heading of § 435.222. We proposed to change the existing heading of § 435.222 from ''Optional eligibility for reasonable classifications of individuals under age 21'' to ''Optional eligibility for reasonable classifications of individuals under age 21 with incomes below a MAGI-equivalent standard.'' As we explained in section II.B.6 of the preamble of the September 2022 proposed rule, part of the rationale for proposing a new § 435.223 was to confirm the authority of States to extend eligibility to reasonable classifications of individuals under age 21 who are excepted from the mandatory use of MAGI-based methodologies. We further explained that, while the proposed § 435.223 would not be exclusive to non-MAGI reasonable classifications of individuals under age 21, we believed, as a practical matter, States would utilize the proposed § 435.223 only for non-MAGI reasonable classifications, because § 435.222 already permitted MAGI-based reasonable classifications of individuals under age 21.

Upon further review, however, we recognize that the current terms of § 435.222 only permit the creation of MAGI-based reasonable classifications of individuals under age 21 within two particular eligibility categories: section 1902(a)(10)(A)(ii)(I) (relating to individuals who are eligible for, but are not receiving, cash assistance); and section 1902(a)(10)(A)(ii)(IV) (relating to individuals who would be eligible for cash assistance but for their institutionalization). Because § 435.222 limits States' ability to create MAGI-based reasonable classifications of individuals under age 21, we are further modifying our proposed heading of § 435.222 to read ''Optional eligibility for reasonable classifications of individuals under age 21 with income below a MAGI-equivalent standard in specified eligibility categories,'' to better reflect the limited reach of § 435.222.

Neither the heading to the proposed § 435.223, nor the terms of the

September 2022 proposed rule, limited eligibility to individuals eligible on a non-MAGI basis. Therefore, our change to the heading to § 435.222 does not require a corresponding change to § 435.223 (which, as noted above, we are finalizing as proposed). We also confirm that States may offer eligibility under § 435.223 to MAGI-based reasonable classifications of individuals under age 21 who are eligible under categories separate from section 1902(a)(10)(A)(ii)(I) and (IV).

We also note that the proposed regulation text to § 435.601 noted paragraph (f)(2) as ''[Reserved.]'' This was inadvertent. Current § 435.601(f)(2) contains certain rules relating to a State's election of less restrictive financial methodologies. No change was intended to be proposed or is being made to this provision.

Comment: One commenter specifically encouraged CMS to evaluate any cost-sharing requirements that a State might apply to this new pathway which could in turn create a barrier to coverage.

Response: We thank the commenter for raising this concern about cost-sharing requirements. We have considered possible financial barriers to coverage under § 435.223 in the context of cost-sharing requirements. Specifically, we reviewed our premiums and cost-sharing rules under 42 CFR 447.50 through 447.90, to identify any standard limitations that apply to individuals under 21 or reasonable classifications of such individuals. Currently, under § 447.56(a)(1)(v), States may exempt from premiums and cost-sharing ''individuals under age 19, 20, or age 21, eligible under § 435.222.''

As we explained in the September 2022 proposed rule, proposed § 435.223 is derived from the same statutory provisions that supports § 435.222. With the addition of a new § 435.223, there would be no statutory directive or logical reason to limit the discretion in § 447.56(a)(1)(v) to individuals eligible under § 435.222 and not include those eligible under § 435.223. In this final rule, therefore, we are making a technical amendment to § 447.56(a)(1)(v) to add ''and § 435.223'' after ''42 CFR 435.222.''

After consideration of the public comments we received, we are finalizing §§ 435.223 and 435.601(b)(2), (d), and (f)(1)(i) and (ii) as proposed (with certain minor stylistic changes to cross-references therein that do not affect the substance), and are making modifications, as described previously in this final rule, to §§ 435.222 (the heading) and 447.56(a)(1)(v). Because the effect of this change is specific to allowing states to establish an optional eligibility group for all or a reasonable classification of individuals under age 21 whose eligibility is excepted from use of the MAGI-based methodology (that is, those living with a disability), or whose MAGI-based eligibility is not otherwise described, and for which such coverage is not already permitted in regulation, we note that this provision operates independently from the other provisions of this final rule.

C. Eliminating Barriers to Access in Medicaid

1. Remove Optional Limitation on the Number of Reasonable Opportunity Periods (§§ 435.956 and 457.380)

Sections 1902(a)(46)(B), 1902(ee)(1)(B), 1903(x)(4), and 1137(d)(4)(A) of the Act, set forth the requirement for States to provide a reasonable opportunity period (ROP) for individuals who have declared U.S. citizenship or satisfactory immigration status, for whom the State is unable to promptly verify citizenship or satisfactory immigration status, and who meet all other eligibility requirements. During the ROP, the State furnishes benefits to the individual while continuing efforts to complete verification. Current § 435.956(b)(4) provides an option for States to limit the number of ROPs that a given individual may receive, if the State demonstrates that the lack of limits jeopardizes program integrity. As we have no information indicating the availability of multiple ROPs poses significant risks to program integrity, in the September 2022 proposed rule, we proposed to revise § 435.956(b)(4) to remove the option for States to impose limits on the number of ROPs that an individual may receive. This Medicaid requirement is applicable to CHIP through an existing cross-reference at § 457.380(b)(1)(ii).

We received the following comments on this proposed change:

Comment: The overwhelming majority of commenters supported the proposed change to remove the State option to place a limitation on the number of reasonable opportunity periods an individual may receive. Supportive comments included statements that allowing States to limit the number of ROPs would make it harder for eligible individuals to enroll, which could disproportionately impact certain vulnerable groups, that there is no indication that the availability of multiple ROPs poses significant risks to program integrity, and that limitations on the number of ROPs are unnecessary and act as barriers to eligible immigrants' enrollment. One commenter shared that removing the option to limit ROPs is consistent with sections 1902(a)(46)(B), 1902(ee)(1)(B)(ii), 1903(x)(4), and 1137(d)(4)(A) of the Act, which do not include any limitation on the number of ROPs.

Response: We agree with these comments. Under section 1902(a)(8) of the Act and § 435.906, State agencies must afford individuals the opportunity to apply for Medicaid without delay. The ROP is an integral piece of the Medicaid application and enrollment process when the State is not able to promptly verify an individual's citizenship or satisfactory immigration status. By removing the option for States to limit the number of ROPs, we aim to reduce barriers to enrollment and to ensure that U.S. citizens and immigrants and their families applying for or renewing their coverage have prompt access to the benefits to which they are entitled while they complete the process of verifying their citizenship or satisfactory immigration status. We agree that the statute does not expressly limit the number of ROPs an individual may receive, nor does it expressly provide discretion for States to establish such a limit. We note that only one State has elected the option to limit the number of ROPs, as a pilot program, and that State removed the requirement from its State Plan as data revealed there were no program integrity issues.

Comment: One commenter shared that an applicant's immigration status can change over time and that the removal of the ROP limitations better accommodates circumstances in which such a change may occur.

Response: We understand that an individual's immigration status may change as their life circumstances change, including when an individual has applied for an adjustment of status to Lawful Permanent Resident (LPR, or ''green card'' holder). By removing the State option to limit the number of ROPs, we intend to allow for the possibility that an individual's immigration status may have changed since the individual was last determined eligible for Medicaid or CHIP, or that new information or evidence regarding their satisfactory immigration status may be available. We agree that individuals who submit a new application after they are procedurally terminated or terminated for another reason should be afforded another ROP if their citizenship or immigration status cannot be promptly verified, including when their citizenship or immigration status changed from the status on their previous application.

Comment: Many commenters shared that some applicants such as survivors of domestic abuse and individuals experiencing homelessness are more likely to have difficulty with electronic data matches to verify their U.S. citizenship or satisfactory immigration status. The challenging circumstances some vulnerable individuals face can make it harder for them to be determined eligible for Medicaid. These commenters noted that noncitizens, such as Compact of Free Association (COFA) migrants or those with visas under the Violence Against Women Act (VAWA) or trafficking victims (T visa holders), may have particular difficulty having their immigration status verified timely or providing paper documentation. The commenters shared that allowing States to limit the number of ROPs could disproportionately impact these communities, widening health disparities. These individuals are more likely to need an ROP to ensure the individual can immediately enroll in Medicaid if they have attested to U.S. citizenship or satisfactory immigration status and meet all other eligibility requirements, so that they can receive benefits during delays in the verification process.

Response: We agree that individuals experiencing domestic abuse and homelessness, or survivors of trafficking, may have greater difficulty with verification of citizenship or immigration status, because without stable and permanent housing, individuals often do not have access to the documentation that includes the information needed by States to begin verification of satisfactory immigration status with DHS SAVE system. For example, an individual who is a Victim of Trafficking may need to provide paper documentation, specifically a letter issued by the HHS' Office of Refugee Resettlement, demonstrating evidence of satisfactory immigration status, when such status is not verifiable through the Federal Data Services Hub or DHS SAVE system. For many other noncitizens, to initiate DHS SAVE system verification, an individual must provide an ''Alien number'' or I–94 number. We note that while most COFA migrants' immigration status can be verified electronically through the Hub or DHS SAVE system, there are some COFA migrants who may have to provide additional paper documentation to verify COFA status. The ROP is intended to account for delays in the verification process, such that individuals can receive coverage while waiting for verification of their citizenship or satisfactory immigration status. There may be operational challenges or delays with the verification process, including for noncitizens with the DHS SAVE system or if an individual's citizenship is not verified with the SSA. We believe that ROPs should not be limited, given the possibility of individuals, especially vulnerable individuals, needing additional time for their citizenship or satisfactory immigration status to be verified.

Comment: A few commenters encouraged CMS to engage in oversight of States' implementation of this provision to ensure that individuals are afforded a ROP and receive benefits during that time.

Response: We provide oversight of States' Medicaid and CHIP eligibility determination and enrollment processes through multiple avenues. We offer technical assistance to States on various eligibility issues, including citizen and noncitizen eligibility requirements and verification processes, through monthly Eligibility Technical Assistance Group (E–TAG) meetings, Center for Medicaid and CHIP Services (CMCS) all-State calls, and one-on-one calls with State agency staff. We also conduct oversight of State's eligibility policies and processes through the PERM and MEQC programs and other CMS eligibility audits, through which eligibility cases are sampled and reviewed for compliance with all eligibility criteria and enrollment processes, including those related to citizenship and satisfactory immigration status. Finally, we make extensive eligibility policy resources available on Medicaid.gov to assist States in making accurate eligibility determinations. When we learn that a State is out of compliance with Federal statutes that CMS has been charged with implementing or CMS regulations, we immediately begin working with the State to address the issue—providing technical assistance, requesting corrective action when needed, and then withholding Federal funding when noncompliance cannot otherwise be resolved.

Comment: One commenter suggested clarification that in prohibiting a limitation on ROPs, CMS is not requiring States to accept self-attestation and thereby approve an application that has not been electronically verified for citizenship status. Another commenter expressed concern that without a limitation on ROPs, the State may be forced to accept other information on the application that is no longer accurate.

Response: A State must comply with the statutory requirements for verification of U.S. citizenship and satisfactory immigration status prior to completing an applicant's eligibility determination. Section 1902(a)(46)(B) of the Act requires Medicaid agencies to verify the U.S. citizenship of applicants who have attested to being U.S. citizens; verification may occur through a data match with the SSA under section 1902(ee) of the Act, or an alternative method of verification under section 1903(x) of the Act. States must verify an applicant's declaration of satisfactory immigration status through an electronic system set up by DHS under section 1137(d) of the Act. If an individual has declared to be a U.S. citizen or to have satisfactory immigration status but the State has been unable to complete verification of such status, and the individual meets all other Medicaid and CHIP eligibility requirements, the agency must provide an ROP and make benefits available during the ROP. Federal statute and regulations specify that if verification of citizenship or satisfactory immigration status is not completed by the end of the ROP, except in specific cases, benefits must be terminated within 30 days.

We do not agree that, by removing the limit on the number of ROPs, State Medicaid and CHIP agencies will have to accept application information that is no longer accurate. For each application that is submitted, the individual would be required to provide a declaration of satisfactory citizenship or immigration status and updated information regarding U.S. citizenship or satisfactory immigration status. Such information would be verified by the State Medicaid or CHIP agency in accordance with sections 1902(a)(46), 1902(ee)(2)(B), 1903(x) and 1137(d)(3) of the Act, §§ 435.407, 435.945, and 435.956, and the State's approved verification plan. Finally, under 42 CFR 435.907(f), all applications must be signed under penalty of perjury.

Comment: One commenter recommended that CMS amend the proposed rule to require States to close a case, for which citizenship or immigration status has not been electronically verified, that is more than 90 days old. The commenter further noted that this would not prohibit an individual from submitting a new application.

Response: This comment is outside the scope of this regulation. However, we note that § 435.956(b)(3), implementing sections 1902(ee)(1)(B)(ii)(III) and 1137(d)(5) of the Act, requires State Medicaid and CHIP agencies to terminate benefits within 30 days of the end of the 90-day ROP, while providing notice and fair hearing rights under 42 CFR 431,

subpart E, if the individual's U.S. citizenship or satisfactory immigration status has not been verified. States have an option (described at § 435.956(b)(2)(ii)(B)) to extend the ROP beyond 90 days for individuals declaring to be in a satisfactory immigration status, if the agency determines that the individual is making a good-faith effort to obtain any necessary documentation, or the agency needs more time to verify the individual's status through other available electronic data sources or to assist the individual in obtaining documents needed to verify their status. This option, which must be elected through a State plan amendment, is not impacted by this final rule. Some States have also provided for a similar extension for individuals who have declared to be U.S. citizens under section 1115 demonstration authority during the unwinding period.

After consideration of the public comments we received, we are finalizing without modification our proposal at § 435.956(b)(4) to remove the optional limitation on the number of reasonable opportunity periods. Because the effect of this change is specific to removing the option to limit the number of ROPs during which otherwise eligible applicants receive Medicaid while they complete verification of their U.S. citizenship or satisfactory immigration status, we note that this provision operates independently from the other provisions of this final rule.

2. Remove Requirement To Apply for Other Benefits (§§ 435.608 and 436.608)

In the September 2022 proposed rule, we proposed to remove the requirement at § 435.608 that State Medicaid agencies require Medicaid applicants and beneficiaries, as a condition of their eligibility, to take all necessary steps to obtain other benefits to which they are entitled, such as annuities, pensions, retirement and disability benefits, unless they can show good cause for not doing so. This requirement presently applies to all Medicaid applicants and beneficiaries, without regard to the basis of their eligibility or the financial methodology used to determine their eligibility.

In section II.B.2. of the September 2022 proposed rule, we explained that current § 435.608 was established in 1978, under the authority of section 1902(a)(17)(B) of the Act, which authorizes the Secretary to prescribe the standards for evaluating which income and resources are *available* to Medicaid applicants or beneficiaries. Through this proposed change, we would redefine ''available'' in section 1902(a)(17)(B) of the Act to mean only such income and resources as are actually within a Medicaid applicant's or beneficiary's immediate control. We indicated in the proposed rule, however, that we were also considering maintaining the requirement with modifications.

In drafting the September 2022 proposed rule, we inadvertently failed to include the removal of § 436.608 consistent with the change proposed to remove § 435.608. Similar to the proposed revisions to § 435.831(g), this omission was unintentional, as most of the provisions of the proposed rule that are adopted in this final rule are applicable to the 436 territories as a result of incorporation by reference in existing regulations (as noted elsewhere throughout this final rule). The same reasons for rescinding § 435.608 also apply in the 436 territories. We are including the recission of § 436.608 in this final rule to make the same simplification available to applicants in Guam, Puerto Rico, and the Virgin Islands and the Medicaid agencies in these territories. All references to § 435.608 in the September 2022 proposed rule and this final rule also apply to § 436.608.

We received the following comments on this proposal:

Comment: Most commenters supported the proposal to eliminate § 435.608 in its entirety. Numerous commenters, including beneficiary advocacy organizations and State Medicaid agencies, stated that the current rule is outdated, burdensome, and impedes access to medical care. Several commenters identified the administrative challenges posed by the current rule and welcomed eliminating the work involved in applying the rule in their eligibility determinations. Two commenters specifically mentioned the communications with applicants and beneficiaries made necessary by § 435.608, with one reporting that multiple contacts are commonly required and the other reporting that they are time consuming. Multiple commenters stated that compliance with § 435.608 does not commonly result in applicants or beneficiaries receiving income that affects eligibility, and several commenters noted challenges related to specific benefits. One commenter stated that this change would help veterans by eliminating the burden of applying for veterans' benefits to which they may not be entitled. Other commenters noted that this requirement can frequently result in individuals being forced to elect early retirement benefits from Social Security, which provides a lower monthly benefit. One commenter stated this choice is particularly harmful for women because, the commenter wrote, women are more likely than men to rely on Social Security but receive lower average benefits than men, and, as women and particularly women of color, as further shared by the commenter, are at greater risk of poverty as they age, a reduction in their Social Security benefit could represent a serious loss at a financially precarious time. Additionally, one commenter stated that, as CHIP, BHP, and the Marketplace do not impose a requirement to apply for other benefits, the Medicaid requirement creates misalignment across programs, which is a counter-objective of the September 2022 proposed rule itself.

Many commenters expressly opposed the alternatives we presented, under which CMS would maintain the rule but with modifications. These comments noted that only reducing the scope of the rule would have little practical value, because a modified requirement to apply for other benefits would still leave many individuals subject to the rule, and a modified form of the rule would possibly be more complex for States to administer.

Response: We appreciate this support and commenters' explanations about specific impacts of our proposal. We are finalizing our proposal to remove and reserve § 435.608.

Comment: Some commenters suggested that CMS consider ways to encourage States to educate beneficiaries about the other benefits to which they may be entitled, including public benefit programs, by engaging in partnerships with other entities, and that CMS should consider using its resources to help facilitate the timely enrollment of Medicaid beneficiaries in such programs. The commenters mentioned the SNAP as an example of a program that could help meet the needs of Medicaid beneficiaries. Another commenter stated that individuals should pursue income and benefits for which they are potentially eligible, as it is in their best interest to do so, even if receipt of such benefits would not be counted for Medicaid eligibility.

Response: We agree generally that the receipt of other benefits to which Medicaid applicants and beneficiaries are entitled could help such individuals meet their needs. The purpose of this rulemaking to eliminate § 435.608 is focused on our role in establishing the parameters for Medicaid eligibility rather than assessing whether applying for other benefits serves the best interests of Medicaid applicants and beneficiaries. We did not originally

promulgate § 435.608 based on our judgment of what actions taken by Medicaid applicants and beneficiaries, even if unrelated to their Medicaid eligibility, might produce the best outcomes for them. Instead, as noted above, we promulgated § 435.608 in order to align a procedural requirement of the AFDC and SSI programs with Medicaid, at a time when eligibility for Medicaid was predominantly based on eligibility for these cash assistance programs.

Removing the Medicaid requirement that applicants and beneficiaries apply for other benefits does not prohibit, and is not intended to discourage, States from educating Medicaid applicants and beneficiaries about their potential eligibility for other such benefits or facilitating their application for them. While we do not intend to directly inform Medicaid applicants and beneficiaries of other benefits for which they may be eligible, we have engaged in efforts to facilitate their eligibility for other programs, such as working with States to establish multi-benefit applications (that is, Medicaid, SNAP, and TANF) and partnering with the Food and Nutrition Service (FNS) to promote and expand demonstration projects aimed at qualifying children for free and reduced-price school meals. We expect to continue working on initiatives such as these and encourage States to continue educating beneficiaries about other benefits for which they may be eligible.

Comment: One commenter supported maintaining § 435.608 and applying the rule in circumstances in which applicants and beneficiaries will receive income countable in their Medicaid eligibility determinations. Another commenter indicated that States should maintain the discretion to apply the rule for individuals who apply for Medicaid on the basis of being 65 years old or older, or having blindness or a disability.

Response: We decline to maintain the rule in circumstances involving countable income or for discrete populations. As noted above, most commenters supported the removal of the provision in its entirety, and numerous commenters noted that only reducing the scope of the rule would have little practical value, because a modified requirement to apply for other benefits would still leave many individuals subject to the rule, and a modified form of the rule would possibly be more complex for States to administer. We did not receive comments suggesting that certain categories of beneficiaries are not as acutely affected by the rule as others, which means that maintaining the rule in limited form will perpetuate the challenges to beneficiaries and States that commenters noted in their input. We are persuaded that maintaining the rule even in limited circumstances would not reduce the delays in access to coverage experienced by applicants or the administrative burden States experience in enforcing it.

Comment: We received several comments relating to the potential costs of eliminating the requirement to apply for other benefits. One commenter expressed concern that an increase in State costs could be an unintended consequence of the elimination of the requirement, which, the commenter indicated, States commonly address by reducing eligibility, benefits, and employing other mechanisms that create barriers to timely access to health care. The commenter suggested that CMS take steps to minimize possible negative ramifications of the proposal. Other commenters stated that removing § 435.608 could increase Long-Term Services and Supports (LTSS) costs, with one commenter specifically noting that, if veterans do not pursue Veteran Aid and Attendance benefits, which are includable in the PETI calculation, State and Federal liability would be affected. The commenter questioned if this had been taken into consideration.

Response: We appreciate the commenters' concern about unintended consequences, in the form of possible increased State costs that might stem from the elimination of the requirement. However, based on the comments we received, we do not share the concern. States commented that imposing the requirement does not commonly produce countable income for Medicaid applicants and beneficiaries. Therefore, we do not expect this change to result in increased State costs. Additionally, as noted above, numerous States, in commenting in support of eliminating § 435.608, reported that the staff time necessary to contact applicants and beneficiaries to confirm compliance with the existing regulation has imposed an administrative burden on them, and that the operational complexity of implementing the requirement outweighs any benefit to them in terms of saved payments for medical assistance. Accordingly, it is possible that this change will result in fewer costs for States by making eligibility determinations more efficient without an offsetting increase in benefit costs.

We interpret the generalized comment about the increase in LTSS costs that might result from the removal of § 435.608 as being related to PETI, which is the subject of the specific comment relating to Veteran Aid and Attendance benefits.

The PETI calculation described in §§ 435.700 through 435.735 (relating to the categorically needy) and 435.832 (relating to the medically needy) generally requires the inclusion of all income, including income that is disregarded or excluded in the underlying income eligibility determination. However, nearly all of the examples of benefits specifically identified in § 435.608 for which Medicaid applicants and beneficiaries have historically been required to apply—annuities, pensions, retirement and disability benefits, Old-Age, Survivors, and Disability Insurance (OASDI) and railroad retirement benefits, unemployment compensation—are generally sources of countable income for individuals whose eligibility is determined using non-MAGI income eligibility methodologies and who therefore could be subject to PETI. While there may be some benefits within the scope of § 435.608 that might produce income not countable in a non-MAGI income eligibility determination, but which could be countable in a PETI calculation (that is, a certain portion of Veterans Affairs Administration (VA) Aid and Attendance benefits), the instances are few. Therefore, we do not anticipate that the elimination of § 435.608 would have a disproportionate impact on State LTSS costs compared to non-LTSS expenditures, nor an impact that would persuade us to make § 435.608 a post-enrollment activity.

Comment: One commenter requested clarification about whether removal of § 435.608 means that Medicaid applicants and beneficiaries will not be required to apply for Social Security benefits or for retirement distributions, but that they may still be required to apply for Medicare as a condition of Medicaid eligibility.

Response: We confirm that the removal of § 435.608 means that Medicaid applicants and beneficiaries will no longer be required, as a condition of their Medicaid eligibility, to apply for Social Security benefits or retirement distributions. However, States may still require applicants and beneficiaries to apply for Medicare as a condition of Medicaid eligibility.

We have historically permitted, as a State plan option, the requirement that applicants and beneficiaries apply for Medicare as a condition of Medicaid eligibility, subject to certain limitations (described below). This authority is not derived from § 435.608, but instead from *New York State Department of Social*

Services v. *Dublino,* 413 U.S. 405 (1973), the holding of which generally provides support for States to impose collateral conditions of eligibility in Federal programs which further the objectives of the particular program and are not otherwise prohibited by the authorizing statute.

As we have historically noted, Medicaid is the payor of last resort (*see* section 3900.1 of the State Medicaid Manual), and Medicaid regulations prohibit FFP for coverage of any services that would have been covered by Part B of the Medicare program had the individual been enrolled in Part B (section 1903(b)(1) of the Act; § 431.625(c)(3)). Given these precepts and in the absence of any statutory prohibition, consistent with the *Dublino* holding, we have permitted States to require Medicaid applicants and beneficiaries who may be eligible for Medicare to apply for Medicare Parts A, B, and/or D as a condition of Medicaid eligibility. When electing this authority, a State must agree to pay any premiums and cost-sharing (except those applicable under Part D) that such individuals would otherwise incur based on their Medicare enrollment. States continue to have this authority notwithstanding the removal of § 435.608.

Comment: A few commenters noted that States rely on disability determinations made by the SSA for Social Security Disability Insurance (SSDI) benefits and expressed concern that eliminating applications for SSDI as a Medicaid eligibility requirement could increase the workloads of State disability units. The commenters further expressed concern that those who forego applying for SSDI may ultimately forego their Medicare entitlement, which SSDI beneficiaries attain after receiving benefits for 24 months; this would result in Medicaid providing coverage for services such individuals would otherwise receive from Medicare.

Response: It is not clear to us how the removal of the requirement in § 435.608 would increase the workload of State disability units or create circumstances in which they will become newly responsible for making disability determinations. Section § 435.541(c) requires States to conduct a disability determination for individuals who apply for Medicaid on the basis of disability in several different circumstances. These include, but are not limited to, the circumstances in which such a Medicaid applicant has not yet filed an application for disability benefits with SSA, or has filed an application for disability benefits with SSA but is not expected to receive a determination from SSA within sufficient time for the State to comply with the time limit in § 435.912(c)(3)(i) for disability-based Medicaid applications (that is, within 90 days of the filing of the Medicaid application).

An individual who applies for Medicaid on the basis of disability and has not filed a disability claim with SSA, but then does so pursuant to the historical requirement in § 435.608 to apply for other benefits, would most typically still be an individual for whom a State, per § 435.541(c), would conduct a disability determination. This is because the State, in order to comply with § 435.912(c)(3)(i) to determine disability-related eligibility within 90 days of the date of Medicaid application, would most practically proceed with its own determination, instead of first waiting during this period for the outcome of the SSA's determination, as the latter course would present a risk to the State of having insufficient time to make its own determination consistent with § 435.912(c)(3)(i) if it were to become clear that SSA's determination would not be completed before the 90th day of the Medicaid application. In most other situations in which a State is required under § 435.541(c) to determine disability, the relevant individual has already applied for disability-related benefits with SSA.

We appreciate the commenters' additional concern about the possibility of individuals who forego SSDI applications not eventually attaining entitlement to Medicare as a result. However, we generally did not receive comments suggesting that individuals are likely to forego applying for other benefits for which they may be eligible as a result of the removal of § 435.608. As such, it is not clear to us that eliminating § 435.608 will correlate into Medicaid applicants and beneficiaries choosing not to apply for SSDI and, possibly as a result, not attaining entitlement to Medicare. Further, as we explained earlier, States may still advise individuals of their possible eligibility for other benefits.

In addition, as discussed previously, we did receive a comment noting that requiring individuals to apply for Social Security *retirement* benefits before their full retirement age forces them to accept a lower benefit. However, individuals who might now delay filing for Social Security retirement benefits as a result of the removal of § 435.608 would not be Medicare-eligible if they applied for their retirement benefits before the age of 65. At the age of 65, whether they have applied for Social Security retirement benefits or not, they will be Medicare-eligible. As we explained previously, States may still require such individuals, independent of § 435.608, to file an application for Medicare as a condition of Medicaid eligibility. We are therefore not persuaded that eliminating § 435.608 will translate into Medicaid applicants and beneficiaries choosing to forego applying for SSDI or applying for retirement benefits and ultimately requiring States to provide Medicaid coverage for services that could have been covered by Medicare.

Comment: One commenter who supported removal of § 435.608 also recommended that CMS consider eliminating the requirement in §§ 433.145(a)(2) and 435.610(a)(2)(i) that Medicaid applicants and beneficiaries (subject to the ''good cause'' exception) cooperate in establishing the identity of a child's parents and obtaining medical support payments. The commenter believes the requirement is a barrier to coverage.

Response: We appreciate the comment; however, the suggestion is beyond the scope of this regulation.

Comment: One commenter supported the elimination of § 435.608 and suggested that income and resource standards can have the effect of discouraging Medicaid-eligible individuals who have disabilities from working. The commenter noted that Medicaid's working disability eligibility groups allow such individuals to work and maintain their Medicaid coverage, given the higher income and resource standards that generally apply to these groups. The commenter encouraged CMS to issue Federal guidance supporting State adoption of the working disability groups, and allowing States to smoothly transition individuals to other eligibility groups when they experience a change in their health or work status.

Response: We agree on the importance of Medicaid's working disability eligibility groups. While the commenter's suggestions are outside the scope of this regulation, we appreciate this feedback.

Comment: One State indicated that it requires individuals to pursue assets as a condition of receiving certain State-funded cash payments and questioned whether the elimination of § 435.608 would affect this requirement.

Response: Eliminating § 435.608 will only prohibit States from requiring that Medicaid applicants and beneficiaries, as a condition of their Medicaid eligibility, apply for other benefits for which they may be entitled. A similar requirement imposed by a State in the context of its State-funded programs would not be affected.

After consideration of the public comments we received, we are finalizing our proposal to eliminate § 435.608 in its entirety. Because the effect of this change is specific to eliminating the requirement to apply for other benefits as a condition of Medicaid eligibility, we note that this provision operates independently from the other provisions of this final rule.

D. Recordkeeping (§§ 431.17, 435.914, and 457.965)

As we explained in section II.D. of the September 2022 proposed rule, State Medicaid agencies must maintain records needed to justify and support all decisions made regarding applicants and beneficiaries. These records must include sufficient information to substantiate an eligibility determination made by the State. They must also be made available for review purposes, such as review by applicants and beneficiaries prior to a fair hearing and review by State and Federal auditors conducting oversight. Because current recordkeeping regulations are both outdated and lacking in needed specificity, we proposed revisions at §§ 431.17 and 435.914 for Medicaid and at § 457.965 for CHIP to require that State agencies maintain their records in an electronic format and to clarify the specific information to be retained, the minimum retention periods, and the requirements for making records available outside the agency.

We note that § 431.17 applies to States, the District of Columbia, and all Territories, as does § 435.914 through a cross-reference at § 436.901.

We received the following comments on these proposed provisions:

Comment: Many commenters noted their support for the proposed changes, including standardized timeframes for record retention and clarification of the specific records and documentary evidence that must be maintained by States to support eligibility determinations. They supported the alignment of requirements between Medicaid and CHIP and agreed that proposed changes would advance the integrity of these programs. Commenters explained that proper documentation would not only reduce improper payments identified by PERM due to insufficient documentation, but more importantly, actual eligibility and coverage errors that could negatively impact Medicaid and CHIP beneficiaries. Additionally, commenters reported that some States' systems and processes are already in alignment with these proposals.

Response: We thank the commenters for their support. We are finalizing proposed changes to § 431.17 (regarding the format, content, and availability of records, as well as the minimum retention period in Medicaid), changes to § 435.914 (regarding documentation of agency decisions at application, redetermination, and renewal in Medicaid), and corresponding changes at § 457.965 for CHIP with some modifications, which are explained in the following discussion.

Comment: Most commenters supported the proposal at §§ 431.17(d)(1) and 457.965(d)(1) to require States to maintain records in an electronic format. They noted both long-term operational efficiencies and ease of sharing documents. Several commenters raised concerns about the significant technology, time, and resource investment that would be required to transition from paper to electronic records, including the eligibility system interfaces, scanning technology, and staff training that will be required. Some States reported that they have already transitioned completely to electronic records, while others reported that they are in the process of moving to an electronic format. Commenters also noted that implementation may be especially challenging for States with non-MAGI legacy systems, integrated eligibility systems, eligibility offices in smaller, more rural areas, and county-based eligibility systems.

Response: We appreciate these concerns and recognize that States are currently facing competing demands on their time, resources, and eligibility systems. At the same time, we believe it is critically important for States to modernize their recordkeeping processes and implement comprehensive electronic records to address HHS Office of Inspector General (OIG) audits and PERM, MEQC, and other CMS eligibility reviews that have historically identified documentation inadequacies. Accordingly, we are finalizing as proposed the requirements at §§ 431.17(d)(1) and 457.965(d)(1) that Medicaid and CHIP agencies must maintain all required records in an electronic format.

Comment: We received a number of comments regarding standardization. A couple of commenters recommended that CMS work with States to adopt a standardized format across all Medicaid and CHIP agencies. Another commenter expressed concern that implementation of the proposed requirements would necessitate universal definitions for all records both within States and across States. Several commenters recommended that CMS partner with State agencies to ensure that any system changes made to support electronic recordkeeping are completed in a standardized and secure way, including proper testing and training for agency staff. One commenter urged CMS to clarify that States must retain sensitive claims information separately from eligibility and enrollment information. Finally, one commenter requested clarification on the funding available to support the changes needed to comply with these new electronic recordkeeping requirements.

Response: While we recognize the benefits of standardization across States, in this final rule, we do not require States to adopt a single standardized format. We do, however, encourage States to implement a standardized format for records across their systems as much as possible. While each of the records and documentary evidence described in §§ 431.17(b)(1) and 457.965(b)(1) for Medicaid and CHIP respectively are considered part of the case record, we did not propose that these records must be stored in a single system, and this final rule does not require that States maintain all required case records in a single system.

Federal funding may be available for systems development, subject to conditions for enhanced funding (CEF) outlined at § 433.112 and Medicaid program standards, laws, regulations, and industry best practices, including certification under the Streamlined Modular Certification process. As described at § 95.621, State agencies are responsible for the security of all automated data processing systems involved in the administration of Department of Health and Human Services' programs and must establish a security plan that outlines how software and data security will be maintained. This section further requires that State agencies conduct a review and evaluation of physical and data security operating procedures and personnel practices on a biennial basis. Additionally, as specified in part 11 of the State Medicaid Manual, State agencies are required to be in compliance with the security and privacy standards contained in Public Law 104–191, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and adopted in 45 CFR 164, subparts C and E, as follows: The security standards require that measures be taken to secure protected heath information that is transmitted or stored in electronic format. The privacy standards apply to protected health information that may be in electronic, oral, and paper form. Furthermore, State agencies are bound by the requirements in section 1902(a)(7) of the Act, as further implemented in our regulations

at §§ 431.300 through 431.307. These provisions require that use or disclosure of information concerning applicants and recipients is permitted only when directly connected to administration of the State plan and provide additional safeguards to protect applicant and beneficiary data. Conducting a risk analysis, pursuant to HIPAA and implementing regulations at 45 CFR 164.308(a)(1)(ii)(A), should be the first step in identifying and implementing safeguards that comply with and carry out the standards and implementation specifications of HIPAA. Therefore, a risk analysis can be foundational and must be completed to assist organizations in identifying and implementing the most effective and appropriate administrative, physical, and technical safeguards of PII/PHI.

Comment: One commenter suggested that we provide an option for States to store records in non-electronic format in special circumstances, such as when a beneficiary expresses safety concerns that an individual may have unauthorized access to State systems.

Response: We appreciate this comment and agree that maintaining the safety and privacy of Medicaid beneficiaries is of critical importance. We acknowledge that storing records electronically may pose new challenges to ensuring beneficiary records are secure from unauthorized access. However, we note that any recordkeeping system will have security vulnerabilities and that there are safeguards that States can implement to minimize this risk. We believe that electronic storage of records is necessary to align with industry standards and that the advantages of modernizing Medicaid recordkeeping standards outweigh the risks inherent with electronic systems. We are finalizing the electronic format requirements at §§ 431.17(d)(1) and 457.965(d)(1) as proposed. We expect States to implement privacy and security measures in accordance with all Federal and State laws regarding privacy, security, and confidentiality. Compliance with these laws will help to ensure that records are not improperly accessed. To comply with the privacy protections under section 1902(a)(7) of the Act and 42 CFR part 431, subpart F, States must have policies in place that specify for what purposes data will be used within the organization and to whom and for what purposes the agency will disclose data. While States are required to establish electronic recordkeeping as finalized in this rule, States also have flexibility to develop additional protection processes for applicants and beneficiaries who need or request them. For example, a State could place a security freeze on the beneficiary's records at the request of the beneficiary, which would prevent the records from being accessed on the user-end, such as through an applicant or beneficiary user portal, while still allowing the State Medicaid agency to utilize the data as appropriate. Such a process could also include restricting access to records to a limited number of State employees. Additionally, States could implement a policy of requiring identity proofing to validate that an individual attempting to access records on the user-end is the applicant or beneficiary.

Comment: Several commenters supported the specific types of information and documentation that we proposed must be included in beneficiary case records, as described at proposed §§ 431.17(b)(1) and 457.965(b)(1). Another commenter expressed concern about the specific content requirements included in the proposed rule, describing them as rigid and administratively taxing. The commenter expressed appreciation for the historic flexibility in this area and concern that the specificity of the new requirements will lead to increased audit citations.

Response: We appreciate commenters' support of the content requirements proposed at §§ 431.17(b)(1) and 457.965(b)(1) for individual applicant and beneficiary records. We proposed to require such records to include applications, renewal forms, and changes submitted by the individual or household; information transferred from another insurance affordability program; evidence returned regarding the disposition of income and eligibility verification; documentation supporting any decisions made regarding the individual's eligibility; all notices provided to the individual; records pertaining to any appeals or fair hearings; and information on all medical assistance provided. We developed these requirements to assist State Medicaid and CHIP agencies in maintaining records that can be used to justify and support decisions made regarding the eligibility of applicants and beneficiaries and the coverage available to them, defend these decisions when challenged by an applicant or beneficiary, and enable State and Federal auditors and reviewers to conduct appropriate oversight. As discussed in section II.D. of the proposed rule, insufficient documentation was the leading cause of eligibility-related improper payments in the most recent cycles of review in the PERM program, MEQC program, and other CMS eligibility audits. As such, we do not agree with the comment that flexibility in this area has benefited State agencies or that increased specificity related to recordkeeping will increase audit citations. Based on the PERM, MEQC, and other CMS eligibility audit findings and recent OIG findings citing insufficient documentation to evaluate the accuracy of States' eligibility determinations, we anticipate a reduction in audit citations once States fully implement these requirements. We are finalizing the content requirements at §§ 431.17(b)(1) and 457.965(b)(1) as proposed.

Comment: One commenter expressed support for our proposal to expand the Medicaid case documentation requirements at § 435.914 to include agency decisions at renewal, in addition to agency decisions at application. One commenter suggested further amendment to add redeterminations in addition to renewals.

Response: We appreciate the support for the changes proposed at § 435.914, which would require State Medicaid agencies to include in each applicant's case record, the facts and documentation necessary to support a decision of eligibility or ineligibility at application and at renewal. We did not intend to exclude redeterminations based on changes in circumstance from these recordkeeping requirements. Accordingly, we are adding ''redetermination'' to § 435.914(b) in this final rule to ensure that records related to redeterminations made in response to changes in circumstances are maintained in the same way and to the same extent as records related to applications and annual renewals.

Comment: Commenters requested clarification of the level of detail required to be maintained in each individual's case record, particularly with respect to data received through electronic data sources, when to document data that is not useful to the eligibility determination, and whether to document a lack of data received through data sources.

Response: State Medicaid and CHIP agencies are expected to maintain an appropriate level of detail to permit the individual or other authorized reviewer to understand how and why the agency made a determination of eligibility or a coverage decision. Data received by the State Medicaid or CHIP agency that is related to a condition of eligibility and therefore relevant to the determination made by the State must be maintained. For example, if a State pings an electronic data source to verify income when income is relevant to the eligibility determination, the State must

maintain the income data received, even if the agency subsequently determines that the income data was not useful in making the eligibility determination. In this case, the State Medicaid agency should document that the State found the income information to not be useful to determining or verifying eligibility. This income data as well as documentation that the State reviewed it and determined it to be irrelevant to their determination is necessary context to justify and support the decisions made regarding all applicants and beneficiaries, defend decisions challenged by an applicant or beneficiary who requests a fair hearing, enable State and Federal auditors and reviewers to conduct appropriate oversight, and support the State's own quality control processes.

Comment: One commenter recommended that we require collection of demographic information on all program applicants. They explained that collection of demographic information at application facilitates interactions with individuals who may need language access services or other communication services to enroll in coverage, and it removes the need for entities further down the line to request duplicative information. It also allows programs to track disparities not just in access to services, but in the eligibility and redetermination processes, in retention of eligible individuals and families, and in utilization of services.

Response: We support efforts to collect demographic information for purposes of States providing language access, streamlining communications with applicants and beneficiaries, and supporting retention efforts. However, we believe that *requiring* provision of certain demographic information on the application would increase applicant burden and act as a barrier to enrollment. The requirements regarding certain demographic information collected on the application are outside the scope of this rulemaking, and we decline to require collection of specific demographic information from all program applicants through the requirements for the content of records at § 431.17(b). However, we urge States to continue to explore methods of encouraging applicants to provide demographic information, which can be used to improve access and retention, such as providing help text on the application explaining how demographic information will be used or requesting the information after the person has been enrolled.

Comment: Most commenters supported the proposed requirement at §§ 431.17(d)(2) and 457.965(d)(2) that States must make records available to the Secretary and to Federal and State auditors within 30 days of the request. One commenter specifically supported beneficiary access to case records within 30 calendar days. However, many commenters were concerned by the inclusion of ''other parties, who request, and are authorized to review, such records'' within the requirement. Commenters expressed concerns about applicant and beneficiary privacy, specifically regarding access to sensitive information such as diagnoses and services used, as well as immigration status, that may be used for purposes outside the provision of health care through Medicaid and CHIP. Commenters recommended that we strengthen this requirement by more narrowly defining the specific parties that have a legitimate program integrity purpose or research purpose for accessing beneficiary records. Others recommended that records only be made available to parties authorized under Federal law so that Federal privacy protections clearly apply. One commenter stated that it is important to reassure immigrants that it is safe to apply for health coverage because their information will only be used for purposes of administering the program and not for immigration enforcement purposes. Some commenters suggested that we use this opportunity to clarify CMS policy on information sharing with the DHS or other similar authorities.

Response: We appreciate this comment and agree that safeguarding confidential information concerning Medicaid applicants and beneficiaries is of critical importance. Section 1902(a)(7) of the Act and implementing regulations at 42 CFR part 431, subpart F, require State Medicaid agencies to provide safeguards that restrict the use or disclosure of information concerning Medicaid applicants and beneficiaries to uses or disclosures that are directly connected with the administration of the Medicaid State plan. The same requirements also apply to separate CHIPs under § 457.1110(b), which provides that separate CHIPs must comply with part 431, subpart F. Accordingly, we are clarifying this existing requirement by adding a new paragraph (e) to § 431.17 of this final rule, which specifies that records maintained pursuant to § 431.17 must be safeguarded in accordance with the requirements of part 431, subpart F.

Section 431.302 sets forth the ''purposes directly related to State plan administration,'' which include: Establishing eligibility; determining the amount of medical assistance; providing services for beneficiaries; and conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan. Under longstanding policy, sharing information with DHS about an applicant or beneficiary's Medicaid or CHIP coverage for purposes of a public charge determination is generally not directly related to administration of the State plan,[16] and therefore the circumstances in which such information can be shared with DHS are quite limited. Some examples of permissible disclosure of applicant and beneficiary information include: providing the information needed to verify eligibility under section 1137 of the Act and §§ 435.940 through 435.965, such as verifying immigration status through the DHS SAVE Program; sharing information with a beneficiary's enrolled Medicaid or CHIP providers as needed to provide services; and sharing information with a beneficiary's Medicaid or CHIP managed care plan as needed to provide services.

Comment: Several commenters raised concerns about States' ability to meet the 30-day timeframe for making records available upon request. They noted challenges that may be outside the agency's control, such as a high volume of requests during a specific timeframe or competing demands from other programs in States with integrated or county-based eligibility systems, which may make it difficult to provide all records within the requirement timeframe. Commenters suggested we provide a process for States to request an extension to this timeframe.

Response: At §§ 431.17(d)(2) and 457.965(d)(2) we proposed to require that States make records available within 30 calendar days of the receipt of a request. We thank commenters for the suggestion to permit a process through which States could request an extension of the timeframe for making records available. We understand that there may be limited circumstances in which a State is unable to make records available within 30 days following a request, such as in the case of natural disasters. However, we believe that a process for States to request an extension in such cases is impractical, as States in such circumstances may be unable to take necessary steps to request an extension. In lieu of an extension process, we have revised §§ 431.17(d)(2) and 457.965(d)(2) in this final rule to permit an exception to the 30-day timeframe when there is an

[16] CMCS Informational Bulletin, ''Public Charge and Safeguarding Beneficiary Information'' (issued July 22, 2021), available at: *https://www.medicaid.gov/federal-policy-guidance/downloads/cib072221.pdf.*

administrative or other emergency beyond the agency's control. This exception is modeled on the eligibility determination timeliness exception found at § 435.912(e)(2). States will not be required to seek our approval that use of the exception is appropriate but may want to seek our concurrence for audit or other oversight purposes. Additionally, we are making a technical revision to §§ 431.17(d)(2) and 457.965(d)(2) to clarify that parties may specify in their request a longer period of time for States to provide the requested records.

Comment: We received a number of comments in support of our proposal that the Medicaid and CHIP State plans provide for retention of records for the period during which an applicant or beneficiary's case is active and a minimum of 3 additional years thereafter. One commenter stated that this proposal strikes a good balance between the preservation of necessary information and administrative efficiency. We also received many comments recommending that States be required to maintain applicant and beneficiary records for longer than 3 years. The majority of these comments recommended retention of records during the period in which a case is active and 10 years thereafter. They explained that it is not unusual for an individual to reapply after a break in coverage for 3 or more years, and a longer retention policy would make it possible for the State to utilize verification of citizenship or immigration status and other eligibility factors that do not change when such an individual reapplies for coverage. Commenters also noted that a 10-year retention period would align with the policy for Medicaid MCOs under § 438.3(u) and for drug manufacturers participating in the Medicaid Drug Rebate Program under § 447.510(f).

Response: We appreciate commenters' support for the proposed policy, at §§ 431.17(c) and 457.965(c), which would require State Medicaid and CHIP agencies to retain records while an individual's case is active plus a minimum 3 years thereafter. We also understand commenters' concerns that 3 years will not be sufficient in all cases. A longer retention period may be particularly beneficial for certain citizens and certain qualified non-citizens whose eligible immigration status is unlikely to change and cannot be verified electronically. If such an individual disenrolls and then reapplies, we agree that the enrollment process would be streamlined significantly if the State still had the individual's case record with documentation of their citizenship or satisfactory immigration status.

In proposing a 3-year retention timeframe, we considered the administrative burden of maintaining documentation with a large file size, like a recording of a telephonic signature, along with the different actions for which beneficiary case records may be needed. While we appreciate that retention for just 3 years will not be long enough to help every applicant who reapplies for coverage after a period of disenrollment, we also recognize that no standard will protect everyone. We are also concerned that the burden of maintaining all required documentation for all beneficiaries for at least 10 years may cause some States to take actions to reduce case record size, which could negatively impact applicants' and beneficiaries' user experiences if data is lost or rendered unreadable.

While we appreciate the drawbacks to a 3-year retention period raised by commenters, we still believe that requiring State Medicaid and CHIP agencies to retain records for 3 years after an individual's case is no longer active strikes the best balance between the advantages of a longer retention period and administrative burden on States. Therefore, we are finalizing a 3-year retention requirement at §§ 431.17(c)(1) and 457.965(c), as proposed, with one exception at § 431.17(c)(2) specific to Medicaid, which is described in a subsequent comment response. We note that the requirement to retain records during the period that an individual case is active, plus 3 years thereafter, is the *minimum* requirement for State retention of records. Recognizing the benefits of retaining records for a longer period of time, particularly records related to factors of eligibility that will not change, we encourage all States to consider instituting a longer record retention period. We also note that, as discussed in section II.D. of the September 2022 proposed rule, a case remains active for any applicant or beneficiary who has a fair hearing appeal pending. In addition, in the event that an individual submits a new application prior to expiration of the 3-year period, the records retention clock would restart, and the State would need to retain the case record until 3 years after eligibility is terminated or the individual otherwise disenrolls from coverage.

Comment: One commenter pointed out that State and Federal statute does not allow estate recovery until after a Medicaid recipient dies, or if they are survived by a spouse, after their spouse dies. Therefore, in cases when estate recovery is required, the commenter noted that records may need to be maintained for longer than the proposed 3-year period. This commenter suggested that we amend the minimum record retention period to require records to be maintained for at least 15 years.

Response: We thank the commenter for raising this issue and agree that the proposed minimum retention period may be insufficient in cases where estate recovery is required after the death of a surviving spouse. We also note that in some situations, States may need to delay estate recovery if the deceased beneficiary is survived by someone other than their spouse, such as a minor or child with a disability. We recognize States need to maintain records for use in the estate recovery process, when such a process is required under section 1917(b) of the Act. However, requiring a minimum record retention period of 15 years, even if narrowly tailored to cases where estate recovery is required, may be longer than necessary in some cases and not long enough in other cases. Therefore, we are including an exception to our proposed language at § 431.17(c) when estate recovery is required. As described at § 431.17(c)(2) of this final rule, States must maintain records for individuals whose estates are subject to recovery until they have satisfied their statutory obligations under section 1917(b) of the Act for the estate at issue (that is, the State completed recovery from the estate through a legal proceeding or other means, waived recovery against the estate on the basis of undue hardship, or determined that the estate has insufficient property from which to recover).

Comment: Several commenters requested that CMS amend the proposed record retention period to align with other programs such as SNAP and TANF.

Response: While we acknowledge there may be benefits to aligning the record retention period with other programs, particularly in States with an integrated eligibility system that includes other programs like SNAP and TANF, we decline to make this a requirement. We do not believe that all other programs have the same record retention requirements, and our rule does not preclude a State from maintaining records for a longer period of time if, for example, the State determines it would be administratively convenient to align the period with longer periods used by other programs. Similarly, we do not believe that States are precluded from retaining records

from other programs for a longer period if needed to align with Medicaid's retention period. We believe that our proposed retention period of the time that the case is active plus an additional 3 years for most records, as described at §§ 431.17(c)(1) and 457.965(c), will ensure that applicant and beneficiary records will be available for the majority of circumstances in which such records may be needed. Some programs calculate the retention period only from the date of initial determination, without taking into account the time period a case is active. If we were to impose a minimum retention period that did not take into account the length of time that a case is active, States would not be required to maintain evergreen verification data, for example, which continues to demonstrate a beneficiary's current eligibility even if received more than 3 years prior. Additionally, beneficiaries who enrolled more than 3 years prior may be unable to access all of their records. Therefore, we are finalizing the length of the retention period for most records at §§ 431.917(c)(1) and 457.965(c) as the period when the applicant or beneficiary's case is active, plus a minimum of 3 years thereafter.

Comment: One commenter recommended that the proposed retention policy apply not only to an individual's record while that individual's case is active plus 3 years thereafter, but also while that individual is part of another case that is active, plus 3 years thereafter. Another commenter recommended that the retention period relate to the individual, rather than the active case. One commenter further recommended clarification that States must maintain separate case records for parents and their dependent children.

Response: We appreciate the comments flagging differences in how States maintain applicant and beneficiary records. The regulatory provisions related to recordkeeping in this final rule, at §§ 431.17, 435.914, and 457.965 are specific to individual applicants and beneficiaries. We recognize that applications often include multiple household members, and these household members may remain together in a State's beneficiary case records. However, applicants and beneficiaries receive their own individual determination of eligibility at application, at renewal and when they experience a change in circumstances. Most services are provided at the individual beneficiary level as well. As such, the Medicaid and CHIP regulations regarding maintenance of records are applied at the individual applicant and beneficiary level. This does not preclude a State from maintaining the records of individual household members together for recordkeeping purposes, but in such cases, the household record must be retained while every individual member's case is active and for at least 3 years after the last household member has disenrolled.

Comment: One commenter requested that CMS clarify its expectations for disposition of records after the mandatory retention period ends. Another commenter suggested adding a provision to hold States harmless during audits for documentation omissions that would not have made a difference in determining eligibility for an applicant or beneficiary or in authorizing coverage of a specific service. And one commenter recommended that CMS provide guidance on how States can help applicants and beneficiaries understand how to gain access to their case records.

Response: We decline to prescribe specific regulatory standards in these areas. State Medicaid and CHIP agencies have flexibility to adopt record disposition procedures consistent with their State law, rules, and policies. After the mandatory retention period under this final rule ends, States may choose to maintain records for a longer period of time, archive, or destroy records. With respect to the information that must be made available to auditors, we agree that applicant and beneficiary case records must include the information needed to support the decisions made regarding eligibility and benefits, but the specific details about what types of information may, or may not, be considered in an audit are outside the scope of this rule. Finally, we agree that every State must establish a clear process, that is not burdensome, for individuals to request and access copies of their case records. We will consider including more information on these topics in future subregulatory guidance.

After considering all comments, we are finalizing the recordkeeping requirements proposed at §§ 431.17, 435.914, and 457.965 with some modifications as discussed. Because the effect of this change is specific to clearly defining the types of eligibility determination documentation to be maintained, defining the time required to retain Medicaid and CHIP records and case documentation, removing references to outdated technology, and defining when records must be made available upon request, we note that this provision operates independently from the other provisions of this final rule.

E. Eliminating Access Barriers in CHIP and BHP

1. Prohibition on Premium Lock-Out Periods (§§ 457.570 and 600.525(b)(2))

We proposed to revise CHIP regulations at § 457.570 and BHP regulations at § 600.525(b)(2) to prohibit premium lock-out periods in CHIP and BHP. Premium lock-out periods have permitted States to specify a period of time that an individual must wait after non-payment of premiums until being allowed to reenroll in the CHIP or BHP.

In order to improve continuity of care and align with Medicaid rules in this area, we proposed that States with a separate CHIP or BHP that terminate enrollees for non-payment of premiums or enrollment fees may not condition re-enrollment in CHIP or BHP on the payment of past-due premiums or enrollment fees. This is in accordance with our CHIP statutory authority at section 2101(a) of the Act to ''expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner'' and BHP authority at section 1331(c)(4) of the Act to ''coordinate the administration of, and provision of benefits with the State Medicaid program under title XIX of the SSA, the State child health plan under title XXI of such Act, and other State-administered health programs to maximize the efficiency of such programs and to improve the continuity of care.'' We also sought comment on an alternative proposal to provide States with an option to implement a 30-day premium lock-out period.

Comment: We received numerous comments in support of our proposal to prohibit premium lock-out periods in CHIP. Several commenters indicated that eliminating premium lock-outs would improve access and continuity of care for children and reduce barriers to care. One commenter noted their support for this change in BHP, citing it will simplify BHP premium rules. In addition, a few commenters indicated that even short gaps in coverage can create a barrier to care and stated that CMS should not permit a premium lock-out period of 30 days.

Response: We thank the commenters for supporting our proposal to eliminate premium lock-out periods. We are finalizing this provision as proposed at § 457.570 for CHIP and § 600.525(b)(2) for BHP. As discussed in section II.F.1. of the September 2022 proposed rule, we agree that removing lock-out periods will increase access to care, reduce gaps in coverage, and limit financial barriers to care for low-income families. This final rule will support continuity of care

to ensure enrollees in CHIP and BHP receive and maintain coverage.

Comment: A few commenters requested technical clarifications related to eliminating premium lock-out periods. One commenter requested clarification on whether the enrollee's services will be expected to be covered in the month of termination. Another commenter requested clarification on whether a State can require payment of past-due premiums as a condition of re-enrollment. Another commenter questioned whether States will be able to terminate for non-payment of premiums.

Response: We appreciate the commenters request for clarity on these issues. Under the final rule, once an individual's coverage is terminated, States will not be required to cover services (unless the individual re-enrolls in coverage). Further, as discussed in the September 2022 proposed rule, under the final rule, States cannot require families who were disenrolled to repay past-due premiums as a condition of reenrollment. Because States will no longer be able to require collection of past due premiums or enrollment fees as a condition of eligibility, a family could re-apply for coverage immediately following disenrollment, and could re-enroll without paying any past due premiums. However, the family could be required to pay a new premium or enrollment fee associated with new enrollment prior to re-enrollment. Finally, while the final rule prohibits lock-out periods for individuals with unpaid premiums or enrollment fees, it does not address whether States may still terminate coverage for nonpayment of premiums, an issue that is beyond the scope of the final rule.

Comment: Two commenters opposed prohibiting premium lock-out periods. One commenter expressed concerns that States could experience administrative and budgetary challenges with removing the premium lock-out period.

Response: We acknowledge the commenters' concerns related to potential administrative and budgetary challenges associated with States eliminating premium lock-out periods. To improve administrative simplicity, we encourage States to consider other options for facilitating timely premium payments, such as charging a single, but affordable, annual enrollment fee. As discussed in the September 2022 proposed rule, requiring an affordable enrollment fee may improve retention, reduce disenrollment rates, and simplify program administration by reducing the cost of monthly bill collection. As with premiums, States could consider varying enrollment fees based on family income level to ensure that they are affordable. Some States have reported that the costs associated with managing premium lock-out periods and frequent churn have resulted in greater administrative burden and higher costs compared to premium payment offsets.

Comment: A few commenters requested that CMS delay the effective date of this provision to ensure States have adequate time to make necessary changes in State laws or updates to information technology systems.

Response: We recognize that certain changes proposed in this rule, including the elimination of premium lock-out periods, may require States to make changes to their statutes and/or regulations, as well as systems changes prior to implementation, and that this process can take time. States will no longer be permitted to adopt a new premium lock-out period when this provision becomes effective. However, we are providing States with existing premium lock-out periods with 12 months from the effective date of this final rule to implement the necessary changes to discontinue this policy. States with biennial legislatures that require legislative action to implement these requirements can request an extension of up to 24 months following the effective date of this final rule.

After considering the comments, we are finalizing as proposed. Because the effect of this change is specific to preventing States from disenrolling or locking-out CHIP beneficiaries for failure to pay premiums, we note that this provision operates independently from the other provisions of this final rule.

2. Prohibition on Waiting Periods in CHIP (§§ 457.65, 457.340, 457.350, 457.805, and 457.810)

CHIP regulations at § 457.805(b) have permitted States to institute a 90-day ''period of uninsurance,'' or ''waiting period,'' for individuals who have disenrolled from a group health plan, prior to allowing them to enroll in a separate CHIP. We proposed to revise §§ 457.805(b) and 457.810(a) to eliminate the use of a waiting period for any length of time as a substitution procedure under either CHIP direct state plan coverage or premium assistance. We also proposed conforming amendments to remove references to waiting periods by revising § 457.65(d), removing § 457.340(d)(3), and revising § 457.350(i) (which is redesignated as § 457.350(g) in this final rule). Then we proposed to remove specified limitations in § 457.805(b)(2) and (3) that are no longer relevant without waiting periods.

We sought comment on an alternative proposal to provide States with an option to implement a 30-day waiting period if a high rate of substitution of group coverage could be demonstrated. We are finalizing the change we proposed, to prohibit the use of waiting periods altogether.

Comment: The majority of commenters supported the proposal to prohibit waiting periods in separate CHIPs. Commenters expressed the view that elimination of waiting periods would help reduce potential gaps in children's coverage and simplify the enrollment process for families. In addition, several commenters explicitly opposed permitting a waiting period of any length, including a 30-day waiting period, in favor of eliminating waiting periods altogether.

Response: We thank commenters for their support of the proposal to eliminate CHIP waiting periods. We agree with commenters that permitting a waiting period for any length of time would not sufficiently address the access barriers that waiting periods pose for children and families. In addition, a 30-day waiting period would provide less time for children to obtain coverage in another insurance affordability program during the waiting period. The purpose of these changes is to mitigate gaps in coverage for children that may occur during a waiting period and to align with other insurance coverage such as Medicaid and private insurance plans that do not permit waiting periods prior to individuals being enrolled. The proposal to eliminate separate CHIP waiting periods is also consistent with Executive Order 14070 of April 5, 2022, titled ''Continuing to Strengthen Americans' Access to Affordable, Quality Health Coverage,'' which instructs agencies to identify policy changes to ensure that enrollment and retention in coverage can be more easily navigated by consumers.

Comment: A commenter expressed concern that prohibiting States' use of waiting periods in our regulations would be more restrictive on State plans than the existing title XXI statutory requirements. A few commenters expressed concern that the proposed changes removed some of the State flexibility needed to design their separate CHIPs.

Response: We appreciate the commenters' request for further clarification on these issues. No provision of the Act expressly authorizes waiting periods. As we explained in the preamble to our original CHIP final regulations (66 FR

2490), CMS had previously interpreted section 2102(b)(3)(C) of the Act, which requires the State child health plan to ''include a description of procedures to be used to ensure that the insurance provided under the State child health plan does not substitute for coverage under group health plans,'' to permit States to adopt a waiting period as one possible method to prevent substitution.[17] When CHIP began in 1997, group health plans were the main alternative sources of coverage for children who would otherwise have been eligible for CHIP. Because waiting periods historically involved a period of uninsurance, requiring a waiting period before a child could enroll in CHIP was considered a possible deterrent to families who wanted to change coverage from group health plans to CHIP. CMS therefore permitted waiting periods as one potential route to ensure that CHIP ''does not substitute for coverage under group health plans.''

Since 1997, circumstances have changed significantly. As explained in section II.F.2. of the September 2022 proposed rule preamble, after the passage of the Affordable Care Act, families waiting to enroll in CHIP can receive health coverage through an Exchange, greatly diminishing any deterrent effect that may have resulted from a waiting period. There is little to no evidence that waiting periods effectively reduce substitution of coverage.[18] By contrast, the evidence has shown that waiting periods can impose significant costs on children. There is an abundance of evidence showing that waiting periods reduce program enrollment and utilization of health care services and increase the number of children without insurance.[2] [19] [20] Children are particularly vulnerable to waiting periods because a period of uninsurance can compromise child health and development and access to preventive and primary health care during childhood and adolescence.[21] [22] [23]

Even though sections 2102(b)(1)(B)(iii), 2102(b)(1)(B)(iv), and 2112(b)(5) of the Act prescribe limitations on the use of waiting periods, these restrictions on their usage do not automatically authorize waiting periods. Rather, these provisions—which were included in the statue when it was first enacted in 1997—reflect the fact that waiting periods were, at the time, contemplated as one potential strategy States could use to prevent substitution of coverage, consistent with section 2102(b)(3)(C) of the Act. As explained, because the health coverage landscape has changed since 1997, waiting periods are no longer a viable method to ensure that CHIP does not substitute for coverage under group health plans.

Further, CMS regulations at § 457.805(a) require that States employ ''reasonable procedures'' to ensure that CHIP does not substitute for coverage. For the reasons stated above, as well as those reasons discussed in section II.F.2. of the preamble to the September 2022 proposed rule, waiting periods no longer constitute a ''reasonable procedure'' for preventing or addressing substitution of coverage. States will continue to be required to monitor for substitution of coverage. In addition, States will also have the flexibility to propose a procedure other than a waiting period to reduce substitution of coverage if monitoring shows that substitution of coverage exceeds the acceptable threshold determined by the State in its CHIP state plan. For example, States may implement a CHIP premium assistance program for children enrolled in group health plan coverage, and/or improve public outreach about the range of health coverage options that are available in that State.

We believe this approach appropriately meets the requirements outlined in relevant statute and regulations, while minimizing adverse impacts for children and families that are often a result of implementing waiting periods.

After considering the comments, we are finalizing as proposed. Because the effect of this change is specific to ensuring that CHIP coverage does not substitute for coverage under group health plans, we note that this provision operates independently from the other provisions of this final rule.

3. Prohibit Annual and Lifetime Limits on Benefits (§ 457.480)

Annual and lifetime limits are not permitted on Essential Health Benefits in any individual, group, or employer health plans, or on any benefits in Medicaid. However, CHIP regulations have been silent on the use of annual and lifetime limits except for banning annual and aggregate dollar limits on mental health and substance use disorder benefits. Recognizing that these limits may present barriers to CHIP enrollees receiving necessary health care services and exacerbate unmet treatment needs, we proposed to prohibit any annual, lifetime or other aggregate dollar limitations on any medical or dental services that are covered under the CHIP State plan. This prohibition was included in the September 2022 proposed rule at § 457.480.

We received the following comments on this provision:

Comment: The majority of commenters supported the proposal to prohibit annual and lifetime limits on all covered CHIP benefits. In particular, commenters expressed support for the provision as important to eliminating barriers to care, preventing discrimination against children with higher medical needs, and providing CHIP children improved access to dental and orthodontia care. A few commenters highlighted the positive benefit of aligning State Medicaid programs and CHIP that this provision would achieve. One commenter also noted that States still have the flexibility to design their benefit package, which creates an appropriate balance between utilization management and assuring access to critical services.

Response: We appreciate the support from commenters for our proposal to remove annual and lifetime limits. We are finalizing changes as proposed at § 457.480. As discussed in section II.F.3. of the September 2022 proposed rule, we agree that such limits create barriers for families to access health coverage, particularly for children with the greatest medical needs. States have frequently reported that alignment across Medicaid and CHIP creates administrative simplification, and we

[17] See section II.G.2 of (66 FR 2490), State Child Health; Implementing Regulations for the State Children's Health Insurance Program.

[18] Gruber, J. and Simon, K. (2008) Crowd-out 10 years later: Have recent public insurance expansions crowded out private health insurance? Journal of Health Economics, 27(2):201–217. *https://doi.org/10.1016/j.jhealeco.2007.11.004.*

[19] Reinbold, G.W. (2021). State Medicaid and CHIP options and child insurance outcomes: An investigation of 83 state options with state-level panel data. World Medical & Health Policy, 1–15. *https://doi-org.ezproxyhhs.nihlibrary.nih.gov/10.1002/wmh3.465.*

[20] Medicaid and CHIP Payment and Access Commission, Transitions Between Medicaid, CHIP, and Exchange Coverage, July 2022. Accessed at: *https://www.macpac.gov/wp-content/uploads/2022/07/Coverage-transitions-issue-brief.pdf.*

[21] DeVoe, J.E., Graham, A., Krois, L., Smith, J., & Fairbrother, G.L. (2008). ''Mind The Gap'' in Children's Health Insurance Coverage: Does the Length of a Child's Coverage Gap Matter?. Ambulatory Pediatrics, 8(2), 129–134. *https://doi.org/10.1016/j.ambp.2007.10.003.*

[22] Leininger, L.J. Partial-Year Insurance Coverage and the Health Care Utilization of Children. Medical Care Research and Review. 2009;66:49–67. *https://doi.org/10.1177/1077558708324341.*

[23] Buchmueller, T., Orzol, S.M., & Shore-Sheppard, L. (2014). Stability of children's insurance coverage and implications for access to care: evidence from the Survey of Income and Program Participation. International journal of Health Care Finance and Economics, 14(2), 109–126. *https://doi.org/10.1007/s10754-014-9141-1.*

agree that this is an important area for alignment. We also recognize, as noted by commenters, that States continue to have flexibility in designing their benefit package, as long as they adhere to the relevant requirements in part 457, subpart D.

Comment: One commenter expressed support for the September 2022 proposed rule and recommended that removing limits should be factored into rate setting to ensure actuarial soundness in States with managed care plans.

Response: We agree with the point raised by the commenter. States that remove lifetime and annual limits in a CHIP managed care delivery system should ensure that such changes are accounted for in rate development. States must adhere to the Federal standards for rate development in CHIP managed care at § 457.1203, including using payment rates in CHIP managed care that are consistent with actuarially sound principles. We recommend that States coordinate closely with their actuaries to ensure the application of generally accepted actuarial principles and practices in CHIP managed care rate setting.

Comment: Two commenters opposed removing annual and lifetime limits. Specifically, one commenter expressed concern related to prohibiting annual and lifetime limits due to the potential cost impact to State CHIPs.

Response: We recognize that the potential cost associated with eliminating annual and lifetime limitations in CHIP is an important consideration for States and health plans. We note that one study found that the cost of eliminating lifetime limits is minimal because only a small number of people exceed them.[24] In addition, improving overall access to dental care services, for example, helps families avoid emergency room visits that may increase financial burden for both States and families. We also note that CHIP has been an outlier in terms of permitting these types of limitations. Following implementation of the ACA, neither Medicaid, Exchange, nor private group health plans allow annual, lifetime or other aggregate dollar limitations. Thus, higher income children in the Exchange have been protected from these types of limitations whereas lower income children in CHIP continued to be subject to dollar limitations. We also note that States and health plans have extensive experience in using other types of cost containment mechanisms.

For the above reasons, we are finalizing these changes to § 457.480 as proposed. Because the effect of this change is specific to prohibiting annual and/or lifetime limits on benefits in CHIP, we note that this provision operates independently from the other provisions of this final rule.

F. Compliance Timelines

In the September 2022 proposed rule, we did not specify the date(s) by which States would be required to demonstrate compliance with the proposed requirements, but we requested comment on appropriate compliance timeframes. We received the following comments on the amount of time States will need to implement each provision as proposed:

Comment: Many comments regarding the timeline for implementing this rule focused on the benefits of the streamlined eligibility and enrollment processes included in the September 2022 proposed rule and the likelihood that these changes would reduce erroneous disenrollments when States begin to terminate the coverage of ineligible individuals at the end of the continuous enrollment condition. Timeframes recommended by these commenters ranged from promptly or as soon as practicable to specific timeframes of 30 to 60 days, 90 days, and no more than 6 or 12 months following publication of this final rule. Some commenters supported our proposed approach to make all changes effective 30-days after publication, with compliance required within 12 months. Others recommended prioritizing some provisions for earlier implementation, or phasing them in, based on different factors, including whether the provisions (1) would help to mitigate coverage losses; (2) required fewer resources; (3) posed a smaller technological burden or required fewer system changes; or (4) simply clarified existing requirements. Many commenters recognized the need to balance State resources and the amount of work required to implement a change with the needs of beneficiaries and the potential positive impact on coverage. They urged CMS to afford States sufficient time to implement, but not more time than would be necessary.

At the other end of the spectrum, many commenters focused on the vast resources States were currently directing toward unwinding from the PHE and returning to regular operations at the end of the continuous enrollment condition. They described how that work was already stretching States' limited resources, and that States could not simultaneously manage that work and implement this rule within the proposed timeframe. Many commenters expressed concern that the significant time and resources needed to implement this rule would take time and funding away from unwinding work and that instead of mitigating coverage losses, speedy implementation would put States at risk for implementation errors. Commenters described many changes that States will need to make as they implement this rule, including: developing new State legislative and regulatory constructs; revising budget requests to obtain needed funding; implementing system updates, which will be much greater in States that still utilize legacy systems for eligibility and enrollment that is not based on MAGI; designing new procedures and implementing workflow changes; hiring and training staff to implement the new processes and requirements; and obtaining CMS approval of changes to their State plans. None of these commenters believed our proposed timeframe for compliance was adequate. They recommended timeframes for compliance ranging from at least 6 to 12 months following the end of unwinding to 2, 3, or 5 years following publication of this final rule. One commenter suggested that CMS pause this rulemaking and refile it after States have returned to regular operations following the continuous enrollment condition. Several commenters also recommended that we provide States with an option to request an extension when specific barriers could not be overcome during a required compliance timeframe.

Response: We agree that the provisions in the September 2022 proposed rule will help eligible individuals to enroll in Medicaid and CHIP and to stay enrolled as long as they remain eligible. At the same time, implementing many of the provisions in this final rule will require complex systems changes that will take time for States to make. We are sympathetic to States' assertions that they are currently devoting all available resources toward protecting the enrollment of eligible individuals as they unwind from the continuous enrollment condition, and we believe that requiring States to divert resources away from this work will likely do more harm than good. We also agree that an early effective date, combined with phased-in compliance, strikes the best balance between making the streamlined processes in this final rule available as soon as possible and giving States the time needed to implement these changes correctly. We

[24] PricewaterhouseCoopers. ''The Impact of Lifetime Limits.'' March 2009. Prepared for the National Hemophilia Foundation on behalf of the Raise the Caps Coalition.

appreciated the many suggestions for criteria to assist us in developing a phase-in plan for compliance.

After considering all of the factors suggested for phase-in and all of the challenges that States may need to overcome as they implement these changes, we are finalizing this rule with an effective date 60 days after publication and will phase-in compliance with each provision as described in Table 2, with full compliance required no more than 36 months after this final rule becomes effective.

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TABLE 2: Compliance Timeframes

Provision	Compliance Date
Facilitate enrollment by allowing medically needy individuals to deduct prospective medical expenses (§§ 435.831 and 436.831)	Option available upon effective date
Establish new optional eligibility group for reasonable classification of individuals under 21 who meet criteria for another group (§ 435.223)	Option available upon effective date
Improve transitions between Medicaid and CHIP (§§ 431.10, 435.1200, 457.340, 457.348, 457.350, 600.330)	Upon effective date
Remove optional limitation on the number of reasonable opportunity periods (§§ 435. 956 and 457.380)	Upon effective date
Apply primacy of electronic verification and reasonable compatibility standard for resource information (§§ 435.952 and 435.940)	Upon effective date
Remove requirement to apply for other benefits (§§ 435.608 and 436.608)	12 months after effective date
Prohibit premium lock-out periods (§§ 457.570 and 600.525)	Upon effective date; 12 months after effective date for States sunsetting existing lock-out periods [1,2]
Prohibition on waiting periods in CHIP (§§ 457.65, 457.340, 457.350, 457.805, and 457.810)	12 months after effective date [2,3]
Prohibit annual and lifetime limits on benefits (§ 457.480)	12 months after effective date[2, 4]
Agency action on returned mail (§§ 435.919 and 457.344)	18 months after effective date
Recordkeeping (§§ 431.17, 435.914, and 457.965)	24 months after effective date
Verification of Citizenship and Identity (§ 435.407)	24 months after effective date
Align non-MAGI enrollment and renewal requirements with MAGI policies (§§ 435.907 and 435.916)	36 months after effective date
Establish specific requirements for acting on changes in circumstances (§§ 435.916, 435.919, 457.344, and 457.960)	36 months after effective date
Establish timeliness requirements for determinations and redeterminations of eligibility (§§ 435.907, 435.912, 457.340, and 457.1170)	36 months after effective date

[1] The policy will be effective 60 days after publication of this final rule. At that time, States will no longer be permitted to adopt a new premium lock-out period. States with an existing lock-out period will have 12 months to remove it.

[2] States with biennial legislatures that require legislative action to implement these requirements can request an extension of up to 24 months following the effective date of this final rule.

[3] The policy will be effective 60 days after publication of this final rule. At that time, States will no longer be permitted to adopt a new waiting period. States with an existing waiting period will have 12 months to remove the waiting period and establish a substitution monitoring strategy.

[4] The policy will be effective 60 days after publication of this final rule. At that time, States will no longer be permitted to adopt new annual or lifetime limits. States with existing annual or lifetime limits will have 12 months to remove the limits.

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In establishing a compliance date for each provision in this final rule, we first considered whether the provision established a new State option or a requirement, and whether the provision clarified the policy for existing processes or would require new processes. For those provisions that create new options, are expected to require little to no change in State processes, or clarify existing requirements, compliance is required

when the rule becomes effective. Next, we considered those provisions that were expected to reduce State administrative burden and have the least extensive statutory or system implications. Recognizing that some of these provisions may require State legislative action or have budget implications, States will have 12–18 months following the effective date of this final rule to implement these provisions and demonstrate compliance with the new requirements. States with biennial legislatures that require legislative action to implement these requirements can request an extension of up to 24 months following the effective date of this final rule. The last set of provisions are expected to require the greatest change to State systems and workflow processes. To ensure that States have adequate time to adopt the system and policy changes needed to implement these requirements, to ensure that eligibility workers are properly trained in the new policies and procedures, and to ensure that implementation does not interfere with the completion of State unwinding work and mitigations, we are providing States with 24 to 36 months following the effective date of this final rule to demonstrate compliance with these requirements. We encourage all States to work within these timeframes to prioritize completion of these changes as quickly as possible.

Comment: We received a number of comments recommending specific implementation timeframes for specific provisions. Recommended timeframes included:

- Agency action on returned mail as soon as possible, 30 days, and 90 days after the effective date;
- Align non-MAGI enrollment and renewal requirements with MAGI policies 60 days, 90 days, and at least 3 years after the effective date;
- Apply primacy of electronic verification and reasonable compatibility standard for resource information 60 days after effective date;
- Establish specific requirements for acting on changes in circumstances—18–24 months and 3 years after the effective date;
- Prohibiting access barriers in CHIP—as soon as possible;
- Remove requirement to apply for other benefits 90 days after effective date; and
- Transitions between Medicaid and CHIP 90 days after the effective date.

Response: We took each of these recommendations into account when developing the compliance timeframes described in Table 2. In some cases, the specific recommendation was consistent with our final compliance timeframe. For example, commenters recommended between 18 and 36 months to implement the requirements for acting on changes in circumstances. We believe this provision will require significant system changes, particularly in States that are still using legacy eligibility systems, and we are requiring compliance with the requirements at §§ 435.919, 457.344, and 457.960 no later than 36 months after this final rule becomes effective. In other cases, the specific recommendation informed our compliance timeframe even though it is not the same. For example, one commenter recommended making removal of the requirement to apply for other benefits effective 90 days after the effective date. We agree that this is a low-complexity system change that is likely to improve beneficiary access and reduce State administrative burden, and as such, it should happen quickly. However, we are providing States with up to 12 months following the effective date of this final rule to comply with this requirement as we believe some States may require additional time to get the necessary system changes in the queue and to effectuate them.

III. Collection of Information Requirements

In the September 2022 proposed rule, we projected both new burden and savings based on how the rule would change respondents' efforts relative to the status quo. However, the proposed rule referenced Office of Management and Budget (OMB) control numbers that we now believe do not cover certain longstanding provisions of the Medicaid and CHIP programs related to eligibility and enrollment. Specifically, because the Medicaid program predates the enactment of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), and because we viewed many longstanding basic Medicaid requirements as exempt from the PRA, burden for the following requirements were not historically subjected to the requirements of the PRA and therefore are not covered by the OMB control numbers referenced in the September 2022 proposed rule: application (burden on State in processing the application and burden on individual in filling out application); requests for additional information (burden on State in assessing application and burden on individual in responding to State); making eligibility determinations and providing appeal rights (burden on State in making determinations and burden on individual if filing appeal); verifying information in the application (burden on State in conducting verifications and burden on individual in supplying supporting documentation); and renewal process (burden on State in conducting renewals and burden on individual in responding to State). We are addressing that oversight by moving our burden and savings estimates to the Regulatory Impact Analysis (RIA) section of this final rule. We will be bringing the longstanding Medicaid requirements and what was thought to be exempt into compliance with the PRA outside of this rulemaking. That effort will include the publication of **Federal Register** notices with 60- and 30-day comment periods to allow for public comment on the estimates of this final rule's impact.

In addition to the above-mentioned restructuring of the burden estimates from the proposed rule to final rule, the finalization of certain proposed collection of information requirements were separately addressed in the 2023 Streamlining MSP Enrollment final rule. The provisions were specific to individuals dually eligible for both Medicaid and Medicare and include: Information Collection Requests (ICRs) Regarding Facilitating Enrollment Through Medicare Part D Low-Income Subsidy ''Leads'' (§§ 435.601, 435.911, and 435.952), ICRs Regarding Defining ''Family of the Size Involved'' for the Medicare Savings Program Groups using the Definition of ''Family Size'' in the Medicare Part D Low-Income Subsidy Program (§ 435.601), and ICRs Regarding Automatically Enrolling Certain SSI Recipients Into the Qualified Medicare Beneficiaries Group (§ 435.909).

IV. Regulatory Impact Analysis

We received one public comment on the RIA section of the September 2022 proposed rule, which we summarize and respond to here.

Comment: One commenter recommended that CMS include in its RIA more qualitative estimates of the positive impacts of this final rule, in addition to quantitative estimates of administrative spending and spending due to increased enrollment as well as savings to States and beneficiaries. Specifically, the commenter suggested that we highlight the improved health and economic outcomes for beneficiaries of increased enrollment and decreased churn. Likewise, the commenter urged CMS to describe the distributive impacts of the rule as well as the positive effects on health equity.

Response: We agree that we anticipate unquantified positive impacts on beneficiaries as a result of States implementing the policies in this final rule. As discussed in the background section of this final rule and in response

to similar comments in section II. of this preamble, Medicaid and CHIP play a key role in the United States health care system. These programs make it possible for tens of millions of Americans to access the health care services they need. While Medicaid and CHIP coverage can have a huge impact on the individuals served by these programs, we agree that the full value of the programs goes well beyond the individual beneficiaries.

Again, we agree with commenters that the streamlined eligibility and enrollment processes established by this rule will reduce the enrollment churn of eligible individuals on and off Medicaid and CHIP. Commenters noted that a reduction in enrollment churn will not only improve the health of beneficiaries, but it will also protect individual beneficiaries, and their families, from medical debt and associated stressors. We agree with commenters that reduced enrollment churn has the potential to reduce administrative burdens for beneficiaries and their health care providers, improve the ability of beneficiaries and their providers to form lasting relationships, and reduce the need for high-cost interventions that can result from delayed care. We also agree with comments on the broader community impact of this rule. We believe that healthier beneficiaries can be more productive in their homes, their work, and their communities.

We also received one comment specifically related to the rule's collection of information requirements. The comment and our response can be found below.

Comment: One commenter questioned whether the cost savings that CMS claimed that States should achieve once automation is in place are meaningful, since, in many States, most of the Medicaid operations are automated other than the non-MAGI caseloads. According to the commenter, the system, policy, and procedural updates required to implement this rule will need to be prioritized and developed over several years. For example, a small to medium build can take up to 12 months, while a significant build can take 24–36 months, depending on the complexity of the systems and the number of competing priorities. States' challenges include staff turnover and competing priorities, and any administrative savings from this rule would take additional years to realize.

Response: We understand that State system updates, such as those needed to accept applications and supplemental forms via additional modalities, will take time and resources. However, we find this to be a reasonable investment given the reduction in beneficiary burden that will result from being able to submit required information in whatever modality best fits the needs of the applicant or beneficiary. Additionally, while encouraged, there is no requirement for States to integrate non-MAGI with MAGI systems but rather to make non-MAGI renewals possible through the same modalities—for example, paper, phone, web-based—as MAGI renewals. We do recognize the operational challenges States face and are finalizing these requirements so that they are effective using a phased approach (see section II.F for a list of compliance dates for each provision in this final rule).

We remind States that enhanced FFP is available, in accordance with § 433.112(b)(14), at a 90 percent matching rate for the design, development, or installation of improvements to Medicaid eligibility determination systems, in accordance with applicable Federal requirements. Enhanced FFP is also available at a 75 percent matching rate for operations of such systems, in accordance with applicable Federal requirements.

A. Statement of Need

We have learned through our experiences in working with States and other interested parties that there are gaps in our regulatory framework related to Medicaid, CHIP, and BHP eligibility and enrollment. While we have made great strides in expanding access to coverage over the past decade, certain policies continue to result in unnecessary burdens and create barriers to enrollment and retention of coverage. In response to the President's Executive Order on Continuing to Strengthen Americans' Access to Affordable, Quality Health Coverage, we reviewed existing regulations to look for areas where access could be improved.

In this rulemaking, we seek to eliminate obstacles that make it harder for eligible people to remain enrolled, particularly those individuals who are exempted from MAGI and did not benefit from many of the enrollment simplifications in our 2012 and 2013 eligibility final rules. We seek to remove coverage barriers, like premium lock-out periods and waiting periods that are not permitted under other insurance affordability programs, and to reduce coverage gaps as individuals transition from one insurance affordability program to another. Together, the changes in this final rule will streamline Medicaid, CHIP and BHP eligibility and enrollment processes, reduce administrative burden on States and enrollees, expand coverage of eligible applicants, increase retention of eligible enrollees, and improve health equity.

B. Overall Impact

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

Executive Orders 12866 on Regulatory Planning and Review and 13563 on Improving Regulation and Regulatory Review direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The Modernizing E.O. amends section 3(f)(1) of Executive Order 12866. The amended section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) having an annual effect on the economy of $200 million or more in any 1 year (adjusted every 3 years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) for changes in gross domestic product), or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities; (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

OIRA must be prepared for major rules with significant regulatory action(s) or with economically significant effects ($200 million or more in any 1 year). Based on our estimates,

the OIRA has determined this rulemaking is significant per section 3(f)(1) as measured by the $200 million or more in any 1-year threshold, and hence is also a major rule under Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act). Accordingly, we have prepared a Regulatory Impact Analysis that to the best of our ability presents the costs and benefits of the rulemaking.

The aggregate economic impact of this final rule is estimated to be $45.15 billion (in real FY 2024 dollars) over 5 years. This represents additional health care spending made by the Medicaid and CHIP programs on behalf of Medicaid and CHIP beneficiaries, with $37.39 billion paid by the Federal Government and $23.20 billion paid by the States, and a reduction of $15.44 billion in Federal Marketplace subsidies.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $9.0 million to $47.0 million in any one year. Individuals and States are not included in the definition of a small entity. Since this final rule would only impact States and individuals, we do not believe that this final rule will have a significant economic impact on a substantial number of small businesses.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 100 beds. This final rule applies to State Medicaid and CHIP agencies and would not add requirements to rural hospitals or other small providers. Therefore, we are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any one year of $100 million in 1995 dollars, updated annually for inflation. In 2024, that is approximately $183 million. We believe that this final rule would have such an effect on spending by State, local, or tribal governments but not by private sector entities.

C. Overall Assumptions

In developing these estimates, we have relied on several global assumptions. All estimates are based on the projections from the President's FY 2024 Budget. We have assumed that new enrollees would have the same average costs as current enrollees by eligibility group, unless specified in the description of the estimates. We have assumed that the effective date of the rule would be October 1, 2024, with provisions being effective on the schedule described in this rule. In addition, we have relied on the data sources and assumptions described in the next section to develop estimates for specific provisions of this final rule.

D. Anticipated Effects

To derive average administrative burdens for each provision in this rule, we used data from the U.S. Bureau of Labor Statistics' (BLS) May 2022 National Occupational Employment and Wage Estimates (*https://www.bls.gov/oes/2022/may/oes_nat.htm*). Table 3 presents BLS' mean hourly wage along with our estimated cost of fringe benefits and other indirect costs (calculated at 100 percent of salary) and our adjusted hourly wage.

TABLE 3: National Occupational Employment and Wage Estimates

Occupation Title	Occupation Code	Mean Hourly Wage ($/hr)	Fringe Benefits and Other Indirect Costs ($/hr)	Adjusted Hourly Wage ($/hr)
Business Operations Specialist	13-1000	40.04	40.04	80.08
Computer Programmer	15-1251	49.42	49.42	98.84
Database and Network Administrator and Architect	15-1240	53.08	53.08	106.16
Eligibility Interviewers, Government Programs	43-4061	24.05	24.05	48.10
General and Operations Mgr.	11-1021	59.07	59.07	118.14
Interpreter and Translator	27-3091	29.68	29.68	59.36
Management Analyst	13-1111	50.32	50.32	100.64
Procurement Clerks	43-3061	22.38	22.38	44.76

States: To estimate State costs, it was important to take into account the Federal Government's contribution to the cost of administering the Medicaid and CHIP programs. The Federal Government provides funding based on a FMAP that is established for each State, based on the per capita income in the State as compared to the national average. FMAPs range from a minimum of 50 percent in States with higher per capita incomes to a maximum of 76.25 percent in States with lower per capita incomes. States receive an ''enhanced'' FMAP for administering their CHIP programs, ranging from 65 to 83 percent. For Medicaid, all States receive a 50 percent FMAP for administration. As noted previously in this final rule, States also receive higher Federal matching rates for certain services and now for systems improvements or redesign, so the level of Federal funding provided to a State can be significantly

higher. As such, in taking into account the Federal contribution to the costs of administering the Medicaid and CHIP programs for purposes of estimating State burden with respect to collection of information, we elected to use the higher end estimate that the States would contribute 50 percent of the costs, even though the burden will likely be much smaller.

Beneficiaries: We believe that the cost for beneficiaries undertaking administrative and other tasks on their own time is a post-tax wage of $21.98/hr. While we used BLS wage data to estimate the cost of our proposed provisions, this final rule uses the Valuing Time in U.S. Department of Health and Human Services Regulatory Impact Analyses: Conceptual Framework and Best Practices,[25] which identifies the approach for valuing time when individuals undertake activities on their own time. To derive the costs for beneficiaries, we used a measurement of the usual weekly earnings of wage and salary workers of $1,059 [26] for 2022, divided by 40 hours to calculate an hourly pre-tax wage rate of $26.48/hr. This rate is adjusted downwards by an estimate of the effective tax rate for median income households of about 17 percent or $4.50/hr ($26.48/hr × 0.17), resulting in the post-tax hourly wage rate of $21.98/hr ($26.48/hr − $4.50/hr). Unlike our State and private sector wage adjustments, we are not adjusting beneficiary wages for fringe benefits and other indirect costs, since the individuals' activities, if any, would occur outside the scope of their employment.

Total Administrative Burden and Savings: As outlined in Table 4, in total, we expect this rule will result in a one-time administrative burden of 53,409 labor hours for States and savings of minus 7,207,971 labor hours for beneficiaries, as well as $2,589,410 in one-time spending for States and one-time savings of minus $158,431,203 for beneficiaries. However, we also expect the rule to result in annual reductions in administrative burden of minus 3,048,036 labor hours for States and minus 21,859,547 labor hours for beneficiaries, as well as an annual reduction of minus $66,014,177 in spending by States and minus $480,472,849 by beneficiaries.

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[25] *https://aspe.hhs.gov/sites/default/files/migrated_legacy_files//176806/VOT.pdf.*

[26] *https://fred.stlouisfed.org/series/LEU0252881500A.*

TABLE 4: Total Annual and One-Time Administrative Burden and Savings for States and Individuals

	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)
State Total - Annual	56	44,313,473	Varies	(3,048,036)	Varies	$(139,751,180)	$(66,014,177)	n/a	$ 7,722,826
Individual Total - Annual	56	13,312,392	Varies	(21,859,547)	$ 21.98	n/a	n/a	$(480,472,849)	$ (27,883,860)
State Total – One-Time	56	730	Varies	53,409	Varies	$ 5,178,502	$ 2,589,410	n/a	n/a
Individual Total - One-Time	56	3,603,986	Varies	(7,207,971)	$ 21.98	n/a	n/a	$ (158,431,203)	n/a

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1. Facilitating Enrollment by Allowing Medically Needy Individuals To Deduct Prospective Medical Expenses (§ 435.831(g))

The amendments under § 435.831(g) will permit States to project medical expenses of noninstitutionalized individuals that the State can determine with reasonable certainty will be constant and predictable to prevent those in the medically needy group from cycling on and off Medicaid, and preventing the occurrence of an eligibility start date each budget period that is not predictable to either the individual or State agency. Over time, this will reduce the burden on the State by making the spenddown process much more predictable for many noninstitutionalized individuals in the medically needy group. This will also reduce the burden on the individual who will not need to wait for coverage until they've reached their spenddown each budget period but instead will remain continuously enrolled while their medical expenses remain predictable. However, there will be an up-front cost to the States to program their eligibility systems to project the cost of care for the medically needy group and to remove the triggers to reconsider financial eligibility each budget period once the spenddown amount is reached.

This provision is only relevant to the 36 States that have opted to cover the medically needy or are 209(b) States, and it is optional for those States. Assuming all 36 States take up the option, we estimate that 36 States will need to make system changes to program their eligibility systems to project the cost of care for the medically needy group and to remove the triggers to reconsider financial eligibility each month once the spenddown amount is reached. We estimate it will take an average of 200 hours per State to develop and code the changes to utilize projected noninstitutional expenses when determining financial eligibility for medically needy individuals. Of those 200 hours, we estimate it will take a Database and Network Administrator and Architect 50 hours at $106.16/hr and a Computer Programmer 150 hours at $98.84/hr. Therefore, we estimate a one-time burden of 7,200 hours (36 States × 200 hr) at a cost of $724,824 (36 States × [(50 hr × $106.16/hr) + (150 hr × $98.84/hr)]) for completing the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $362,412 ($724,824 × 0.5).

We estimate that under new § 435.831(g), each of all 36 States will no longer need to collect information each budget period on the incurred medical expenses for 25 beneficiaries in the medically needy or mandatory 209(b) groups annually. We estimate it currently takes an Eligibility Interviewer, Government Programs, 2 hours at $48.10/hr and an Interpreter and Translator 1 hour at $59.36/hr to review the incurred medical expenses submitted for 6 months per year per beneficiary. Therefore, each State will save minus 450 hours (−3 hr × 6 months/year × 25 beneficiaries) and minus $23,334 (6 months/year × −25 beneficiaries × [(2 hr × $48.10/hr) + (1 hr × $59.36/hr)]) annually by not processing such incurred expenses each budget period for each individual in the medically needy or mandatory 209(b) groups. In aggregate, we estimate this provision will save all 36 States minus 16,200 hours (−450 hr × 36 States) and minus $840,024 (−$23,334 × 36 States). When taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State savings will be minus $420,012 (−$840,024 × 0.5).

Likewise, we estimate that under new § 435.831(g), those same 25 beneficiaries will no longer need to submit evidence of the incurred medical expenses that their States have designated as being reasonably constant and predictable but instead will remain continuously enrolled and reconcile actual expenses with projected expenses periodically, thus reducing the burden on the individuals. We estimate that it currently takes a beneficiary 2 hours at $21.98/hr to submit information each budget period in an average of 6 months per year. Therefore, beneficiaries in each State will save a total of minus 300 hours (−2 hr × 6 months/year × 25 beneficiaries/State) and minus $6,594 (−300 hr × $21.98/hr) annually. In aggregate, under this provision, beneficiaries across all 36 States will save minus 10,800 hours (−300 hr × 36 States) and minus $237,384 (−$6,594 × 36 States) annually.

When taking into account the Federal contribution, we estimate a one-time State savings of minus $57,600 ($362,412 − $420,012).

TABLE 5: Administrative Burden and Savings for States and Individual from Changes to § 435.831(g)

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§ 435.831(g)	36	900	(12)	(10,800)	$ 21.98	n/a	n/a	$ (237,384)	n/a	Annual
§ 435.831(g)	36	900	(18)	(16,200)	Varies	$ (840,024)	$ (420,012)	n/a	n/a	Annual
§ 435.831(g)	36	36	200	7,200	Varies	$724,824	$362,412	n/a	n/a	One-Time
§ 435.831(g) - Individual Subtotal	***36***	***900***	***(12)***	***(10,800)***	***$ 21.98***	***n/a***	***n/a***	***$ (237,384)***	***n/a***	***Annual***
§ 435.831(g) - State Subtotal	***56***	***936***	***Varies***	***(9,000)***	***Varies***	***$ (115,200)***	***$ (57,600)***	*n/a*	*n/a*	***Both***

2. Application of Primacy of Electronic Verification and Reasonable Compatibility Standard for Resource Information (§§ 435.952 and 435.940)

States have inquired about whether they are permitted to request additional documentation from applicants and beneficiaries related to resources that can be verified through the State's asset verification system (AVS), or if they can apply a reasonable compatibility standard for resources when resource information returned from an electronic data source is compared to the information provided by the applicant or beneficiary. We believe the requirements at § 435.952(b) and (c), which require States to apply a reasonable compatibility test to income determinations, apply to resource determinations as well. We believe that clearly applying the requirements at § 435.952(b) and (c) to resources will help streamline enrollment for individuals applying for Medicaid on a non-MAGI basis, such as on the basis of age, blindness, or disability, and decrease burden for both States and beneficiaries.

The amendments under §§ 435.952 and 435.940 clarify that, if information provided by an individual is reasonably compatible with information returned through an AVS, the State must determine or renew eligibility based on that information. They also clarify that States must consider asset information obtained through an AVS to be reasonably compatible with attested information if either both are above or both are at or below the applicable resource standard or other relevant resource threshold.

Under the changes to §§ 435.952 and 435.940, we estimate that the States will save an Eligibility Interviewer 1 hour per beneficiary at $48.10/hr to no longer reach out to 10,000 individuals per State for additional information to verify their resources. In aggregate, we estimate a savings for all States of minus 510,000 hours (51 States × 10,000 individuals/State × −1 hr) and minus $24,531,000 (−510,000 hr × $48.10/hr). When taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State savings will be minus $12,265,500 (−$24,531,000 × 0.5).

Under the changes to §§ 435.952 and 435.940, we estimate that 10,000 individuals per State will save on average 1 hour each at $21.98/hr to no longer need to submit additional information to verify their resources. In aggregate for individuals in all States, we estimate a savings of minus 510,000 hours (−1 hr × 10,000 individuals/State × 51 States) and minus $11,209,800 (−510,000 hr × $21.98/hr).

TABLE 6: Administrative Burden and Savings for States and Individual from Changes to §§ 435.952 and 435.940

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.952 and 435.940 - Individual Subtotal	51	510,000	(1)	(510,000)	$ 21.98	n/a	n/a	$ (11,209,800)	n/a	Annual
§§ 435.952 and 435.940 - State Subtotal	51	510,000	(1)	(510,000)	$ 48.10	$ (24,531,000)	$ (12,265,500)	n/a	n/a	Annual

3. Verification of Citizenship and Identity (§ 435.407)

The amendments under § 435.407 will simplify eligibility verification procedures by considering verification of birth with a State vital statistics agency or verification of citizenship with DHS SAVE as stand-alone evidence of citizenship. Likewise, under this provision, separate verification of identity will not be required. This revision is not intended to require a State to develop a match with its vital statistics agency if it does not already have one in place. However, if a State already has established a match with a State vital statistics agency or it would be effective to establish such capability in accordance with the standard set forth in § 435.952(c)(2)(ii), the State must utilize such match before requesting paper documentation from the applicant. We estimate this provision will apply to the roughly 100,000 applicants per year for whom States cannot verify U.S. citizenship with SSA.

We estimate that the amendments under § 435.407 will take a Management Analyst 15 minutes (0.25 hr) per applicant at $100.64/hr to check with the State's vital statistics agency for verification of U.S. citizenship of an applicant. In aggregate for all 56 States, this provision will add a burden of 25,000 hours (0.25 hr × 100,000 applicants) at a cost of $2,516,000 (25,000 hr × $100.64/hr). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $1,258,000 ($2,516,000 × 0.5).

In contrast, we estimate that the amendments under § 435.407 will save an Eligibility Interviewer 45 minutes (0.75 hr) at $48.10/hr by no longer needing to request and process paper documentation to verify identity. In aggregate, all 56 States will save minus 75,000 hours (0.75 hr × − 100,000 applicants) and minus $3,607,500 (− 75,000 hr × $48.10/hr). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State savings will be minus $1,803,750 (− $3,607,500 × 0.5).

When taking into account the Federal contribution, we estimate a total annual State savings of minus $545,750 ($1,258,000 − $1,803,750).

For individuals, we estimate that the amendments under § 435.407 would save each applicant 1 hour at $21.98/hr plus an average of approximately $10 in miscellaneous costs [($4.50 postage for small package or $1.75/page for faxing) + $4 roundtrip bus ride (from home to printing/copying place to post office and back home) + $0.13/page for printing/copying], to no longer need to gather and submit paper documentation to verify identity. In aggregate, all 100,000 applicants would save 100,000 hours (1 hr × − 100,000 applicants) and minus $2,198,000 (− 100,000 hr × $21.98/hr) in labor and minus $1,000,000 ($10.00 × − 100,000 applicants) in non-labor related costs.

TABLE 7: Administrative Burden and Savings for States and Individual from Changes to § 435.407

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§ 435.407	56	100,000	(1)	(100,000)	$ 21.98	n/a	n/a	$ (2,198,000)	($1,000,000)	Annual
§ 435.407	56	100,000	(1)	(75,000)	$ 48.10	$ (3,607,500)	$ (1,803,750)	n/a	n/a	Annual
§ 435.407	56	100,000	0	25,000	$ 100.64	$ 2,516,000	$ 1,258,000	n/a	n/a	Annual
§ 435.407 - Individual Subtotal	***56***	***100,000***	***(1)***	***(100,000)***	***$ 21.98***	***n/a***	***n/a***	***$ (2,198,000)***	***(1,000,000)***	***Annual***
§ 435.407 - State Subtotal	***56***	***200,000***	***Varies***	***(50,000)***	***Varies***	***$ (1,091,500)***	***$ (545,750)***	n/a	n/a	***Annual***

4. Aligning Non-MAGI Enrollment and Renewal Requirements With MAGI Policies (§ 435.916)

The amendments under § 435.916(a) will align the frequency of renewals for non-MAGI beneficiaries with the current requirement for MAGI beneficiaries, which allows for renewals no more frequently than every 12 months. Section 435.916(b) also requires States to adopt the existing renewal processes required for MAGI beneficiaries for non-MAGI beneficiaries when a State is unable to renew eligibility for an individual based on information available to the agency. Section 435.916(b)(2) will require States to provide all beneficiaries, including non-MAGI beneficiaries, whose eligibility cannot be renewed without contacting the individual in accordance with § 435.916(b)(1), a renewal form that is pre-populated with information available to the agency, a minimum of 30 calendar days to return the signed renewal form along with any required information, and a 90-day reconsideration period for individuals terminated for failure to return their renewal form but who subsequently return their form within the reconsideration period. Section 435.916(b)(2) no longer permits States to require an in-person interview for non-MAGI beneficiaries as part of the renewal process.

We estimate that in 2021, six States (Minnesota, New Hampshire, Texas, Utah, Washington, and West Virginia) had policies in place to conduct regularly-scheduled renewals for at least some non-MAGI beneficiaries more frequently than once every 12 months. One other State conducted more frequent renewals for non-MAGI populations during normal operations but elected to conduct renewals only once every 12 months for all beneficiaries during the COVID–19 PHE. We excluded the State from these estimates, as it would have needed to make changes for the temporary authority in effect as of 2021 during the PHE.

Under § 435.916(a), we estimate it will take an average of 200 hours per State to develop and code the changes to each State's system to reschedule renewals for non-MAGI beneficiaries no more frequently than once every 12 months. Of those 200 hours, we estimate it will take a Database and Network Administrator and Architect 50 hours at $106.16/hr and a Computer Programmer 150 hours at $98.84/hr. In aggregate, we estimate a one-time burden of 1,200 hours (6 States × 200 hr) at a cost of $120,804 (6 States × [(50 hr × $106.16/hr) + (150 hr × $98.84/hr)]) for completing the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $60,402 ($120,804 × 0.5).

We also estimate that 21 States do not pull available non-MAGI beneficiary information to prepopulate a renewal form.[27] Under § 435.916(b)(2), we estimate it will take an average of 200 hours per State to develop and code the changes to each State's system to pull the existing non-MAGI beneficiary information to prepopulate a renewal form. Of those 200 hours, we estimate it will take a Business Operations Specialist 50 hours at $80.08/hr and a Management Analyst 150 hours at $100.64/hr. In aggregate, we estimate a one-time burden of 4,200 hours (21 States × 200 hr) at a cost of $401,100 (21 States × [(50 hr × $80.08/hr) + (150 hr × $100.64/hr)]) for completing the necessary system changes and designing the form. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $200,550 ($401,100 × 0.5).

While we do not have evidence of how many States currently require an in-person or telephone interview, to calculate this burden, we will assume all 56 States do so, with the understanding that the actual State savings will be much less. In 2020, there were about 2,688,386 non-MAGI beneficiaries[28] for whom States will no

[27] Kaiser Family Foundation. ''Medicaid Financial Eligibility for Seniors and People with Disabilities: Findings from a 50-State Survey.'' Available at: *https://files.kff.org/attachment/Issue-Brief-Medicaid-Financial-Eligibility-for-Seniors-and-People-with-Disabilities-Findings-from-a-50-State-Survey.*

[28] Major Eligibility Group Information for Medicaid and CHIP Beneficiaries by Year, accessed

Continued

longer need to conduct an in-person interview as part of the renewal process. Under § 435.916(b)(2), we estimate that an Eligibility Interviewer will save on average 0.5 hours per beneficiary at $48.10/hr. In aggregate, we estimate this will save States minus 1,344,193 hours (0.5 hr × −2,688,386 beneficiaries) and minus $64,655,683 (−1,344,193 hr × $48.10/hr). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State savings will be minus $32,327,842 (−$64,655,683 × 0.5).

In total for the burdens related to § 435.916, taking into account the Federal contribution, we estimate an annual State savings of minus $32,327,842 with a one-time cost of $260,952 ($200,550 + $60,402).

We estimate that in the aforementioned six States that currently have policies to conduct regularly scheduled renewals for non-MAGI beneficiaries more frequently than once every 12 months, during normal operations in 2020, there were about 2,688,386 non-MAGI beneficiaries [29] who would no longer need to submit a renewal under § 435.916(a). Assuming impacted beneficiaries are evenly distributed across these six States, and assuming it currently takes each beneficiary 1 hour at $21.98/hr to submit a renewal form, in aggregate, beneficiaries across these six States will save minus 2,688,386 hours (−2,688,386 non-MAGI beneficiaries × 1 hr) and minus $59,090,724 (−2,688,386 hr × $21.98/hr).

While we do not have evidence of how many States currently require an in-person interview, to calculate this burden, we will assume all 56 States do so, with the understanding that the actual individual burden will be much less. In 2020, there were about 2,688,386 non-MAGI beneficiaries [30] who will no longer need to travel to a Medicaid office to complete an in-person interview in order to maintain coverage under § 435.916(b)(2). Assuming impacted beneficiaries are evenly distributed across these 56 States and assuming it currently takes each beneficiary 1 hour to travel to and participate in an in-person interview, plus on average $10/person in travel expenses, in aggregate, beneficiaries across these 56 States will save minus 2,688,386 hours (−2,688,386 beneficiaries × 1 hr) and minus $59,090,724 (−2,688,386 hr × $21.98/hr) in labor and minus $26,883,860 (−2,688,386 non-MAGI beneficiaries × $10.00) in non-labor related costs for a total savings of minus $85,974,584 (−$59,090,724 − $26,883,860).

Under § 435.916(b)(2), we estimate 37 States will need to establish a reconsideration period for non-MAGI beneficiaries or extend the timeframe of their existing reconsideration period for non-MAGI beneficiaries to 90 calendar days. In 2020, there were up to 2,688,386 non-MAGI beneficiaries in 56 States [31] who would newly not need to complete a new application to regain coverage after being terminated for coverage for failure to return their renewal form under this provision. Approximately 4.2 percent of beneficiaries are disenrolled from coverage and reenroll within 90 days.[32] Therefore, we estimate 74,603 beneficiaries (2,688,386 beneficiaries/56 States × 0.042 × 37 States) will newly not need to complete a full application to reenroll in coverage because they will be in a 90-day reconsideration period under § 435.916(b)(2). Assuming impacted beneficiaries are evenly distributed across the 37 States and assuming it currently takes each beneficiary 1 hour at $21.98/hr to submit a new full application, this provision will save, in aggregate, beneficiaries across these 37 States a total of minus 74,603 hours (−74,603 beneficiaries × 1 hr) and minus $1,639,774 (−74,603 hr × $21.98/hr).

For beneficiaries, we estimate a total burden reduction of minus 5,451,375 hours (−2,688,386 hr −2,688,386 hr −74,603 hr) and minus $146,705,082 (−$59,090,724 − $85,974,584 −$1,639,774).

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from: *https://data.medicaid.gov/dataset/267831f3-56d3-4949-8457-f6888d8babdd.*

[29] Ibid.

[30] Ibid.

[31] Ibid.

[32] Kaiser Family Foundation (2021). Medicaid Enrollment Churn and Implications for Continuous Coverage Policies. *https://www.kff.org/medicaid/issue-brief/medicaid-enrollment-churn-and-implications-for-continuous-coverage-policies/.*

TABLE 8: Administrative Burden and Savings for States and Individual from Changes to § 435.916

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§ 435.916	37	74,603	(1)	(74,603)	$ 21.98	n/a	n/a	$ (1,639,768)	n/a	Annual
§ 435.916	6	2,688,386	(1)	(2,688,386)	$ 21.98	n/a	n/a	$ (59,090,724)	n/a	Annual
§ 435.916	56	2,688,386	(1)	(2,688,386)	$ 21.98	n/a	n/a	$ (59,090,724)	- $26,883,860	Annual
§ 435.916	56	2,688,386	(1)	(1,344,193)	$ 48.10	$ (64,655,683)	$ (32,327,842)	n/a	n/a	Annual
§ 435.916	21	21	200	4,200	Varies	$401,100	$200,550	n/a	n/a	One-Time
§ 435.916	6	6	200	1,200	Varies	$120,804	$60,402	n/a	n/a	One-Time
§ 435.916 - Individual Subtotal	***56***	***5,451,375***	***(1)***	***(5,451,375)***	***$ 21.98***	n/a	n/a	***$ (119,821,216)***	***$ (26,883,860)***	***Annual***
§ 435.916 - State Subtotal	***56***	***2,688,413***	***Varies***	***(1,338,793)***	***Varies***	***$ (64,133,779)***	***$ (32,066,890)***	n/a	n/a	***Both***

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5. Acting on Changes in Circumstances (§§ 435.916, 435.919, and 457.344)

The amendments under § 435.919 will, if the State cannot redetermine the individual's eligibility after a change in circumstance using third party data and information available to the agency, allow beneficiaries at least 30 calendar days from the date the State sends a request for additional information to provide such information. In addition, the amendments will require States to provide beneficiaries terminated due to failure to provide information requested after a change in circumstance with a 90-day reconsideration period.

Because the requirements under §§ 435.912, 435.919, and 457.344 will result in more time for beneficiaries to respond to the State's request for additional information, it is likely that fewer beneficiaries will lose eligibility as a result of this provision. As well, because the amendments will, for the first time, provide a 90-day reconsideration period after a change in circumstance for all approximately 85,809,179 Medicaid and CHIP beneficiaries (in the 51 States that reported enrollment data for November 2021) [33] to submit additional information to maintain their eligibility, it is likely that beneficiaries will not need to complete and States will not need to process full applications for 4.2 percent of those individuals or 3,603,986 beneficiaries (85,809,179 beneficiaries × 0.042) who lose coverage and later reenroll.[34]

Assuming the 40 States with a separate CHIP agency can adapt language from the Medicaid notice for their purposes, we estimate it will not take as long for those 40 States to revise the notice requesting additional information from beneficiaries regarding their eligibility after a change in circumstance to include language allowing the beneficiary at least 30 calendar days to respond. Therefore, we estimate it will take an average of 6 hours per State Medicaid agency and 3 hours per separate CHIP agency to complete this task. Of the 6 Medicaid hours, we estimate it will take a Business Operations Specialist 4 hours (and 2 hr for CHIP) at $80.08/hr and a Management Analyst 2 hours (and 1 hr for CHIP) at $100.64/hr. We estimate one-time burden of 306 hours for Medicaid (51 Medicaid States [35] × 6 hr) and 120 hours for CHIP (40 CHIP States × 3 hr) at a cost of $26,602 for Medicaid (51 States × [(4 hr × $80.08/hr) + (2 hr × $100.64/hr)]) and $10,432 for CHIP (40 States × [(2 hr × $80.08/hr) + (1 hr × $100.64/hr)]) for revising the notice requesting additional information. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State shares will be $13,301 for Medicaid ($26,602 × 0.5) and $5,216 for CHIP ($10,432 × 0.5).

We also estimate it will take each State 6 hours to revise the termination notice to beneficiaries who did not respond to the State's request for additional information regarding their eligibility after a change in circumstance

[33] CMS, November 2021 Medicaid & CHIP Enrollment. Available at *https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html.*

[34] Kaiser Family Foundation. (2021). Medicaid Enrollment Churn and Implications for Continuous Coverage Policies. *https://www.kff.org/medicaid/issue-brief/medicaid-enrollment-churn-and-implications-for-continuous-coverage-policies/.*

[35] While this provision applies to all States, Washington, DC, and the 5 territories, we are only estimating the burden for the 51 States for which we have current enrollment data, per the November 2021 CMS enrollment snapshot, available at *https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/downloads/october-november-2021-medicaid-chip-enrollment-trend-snapshot.pdf.*

to include language allowing the beneficiary a 90-day reconsideration period. Of those 6 hours, we estimate it will take a Business Operations Specialist an average of 4 hours at $80.08/hr and a Management Analyst 2 hours at $100.64/hr. In aggregate, we estimate a one-time burden of 336 hours (56 States × 6 hr) at a cost of $29,210 (56 States × [(4 hr × $80.08/hr) + (2 hr × $100.64/hr)]) for revising the termination notice. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $14,605 ($29,210 × 0.5).

We also estimate that it will save each State 50 hours to process full applications annually for beneficiaries who will no longer lose coverage and later reenroll. Specifically, we estimate it will save an Eligibility Interviewer 40 hours at $48.10/hr and an Interpreter and Translator 10 hours at $59.36/hr. In aggregate, we estimate an annual savings of minus 2,800 hours (56 States × −50 hr) and minus $140,986 ([(40 hr × $48.10/hr) + (10 hr × $59.36/hr)] × 56 States) for processing fewer full applications. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State savings will be minus $70,493 (−$140,986 × 0.5).

When taking into account the Federal contribution, we estimate a total State savings of minus $37,371 ($13,301 + $5,216 + $14,605 − $70,493).

We estimate that it will save each beneficiary who is disenrolled after a change in circumstance 2 hours at $21.98/hr to no longer submit a full application. As stated above under burden #4, approximately 4.2 percent of beneficiaries are disenrolled from coverage and reenroll within 90 days.[36] Because this provision applies to all beneficiaries, which numbered approximately 85,809,179 individuals for Medicaid and CHIP (in the 51 States that reported enrollment data for November 2021),[37] we estimate approximately 3,603,986 beneficiaries (85,809,179 beneficiaries × 0.042) will save this time not reapplying after a change in circumstance. In aggregate, we estimate that this provision will save beneficiaries minus 7,207,972 hours (−3,603,986 beneficiaries × 2 hr) and minus $158,431,225 (−7,207,972 hr × $21.98/hr).

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[36] Kaiser Family Foundation (2021). ''*Medicaid Enrollment Churn and Implications for Continuous Coverage Policies*.'' Available at: *https://www.kff.org/medicaid/issue-brief/medicaid-enrollment-churn-and-implications-for-continuous-coverage-policies/*.

[37] CMS, ''*November 2021 Medicaid & CHIP Enrollment*.'' Available at *https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html*.

TABLE 9: Administrative Burden and Savings for States and Individual from Changes to §§ 435.916, 435.919, and 457.344

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.916, 435.919, and 457.344	56	3,603,986	(2)	(7,207,971)	$ 21.98	n/a	n/a	$ (158,431,203)	n/a	Annual
§§ 435.916, 435.919, and 457.344	56	56	(50)	(2,800)	$ 48.10	$ (140,986)	$ (70,493)	n/a	n/a	Annual
§§ 435.916, 435.919, and 457.344	40	40	3	120	$ 80.08	$10,432	$5,216	n/a	n/a	One-Time
§§ 435.916, 435.919, and 457.344	51	51	6	306	$ 80.08	$26,602	$13,301	n/a	n/a	One-Time
§§ 435.916, 435.919, and 457.344	56	56	6	336	$ 80.08	$29,210	$14,605	n/a	n/a	One-Time
§§ 435.916, 435.919, and 457.344 - Individual Subtotal	***56***	***3,603,986***	***(2)***	***(7,207,971)***	***$ 21.98***	***n/a***	***n/a***	***$ (158,431,203)***	***n/a***	***One-Time***
§§ 435.916, 435.919, and 457.344 - State Subtotal	***56***	***203***	***Varies***	***(2,038)***	***Varies***	***$ (74,742)***	***$ (37,371)***	n/a	n/a	***Both***

6. Timely Determination and Redetermination of Eligibility in Medicaid (§ 435.912) and CHIP (§ 457.340)

a. State Plan Changes

The amendments in this section will establish standards to ensure that applicants have enough time to gather and provide additional information and documentation requested by a State in adjudicating eligibility. In addition, the amendments will apply the current requirements that apply at application to redeterminations either at renewal or based on changes in circumstances. To address the current situation where redeterminations remain unprocessed for several months following the end of a beneficiary's eligibility period due to the beneficiary failing to return needed information to the State, these amendments will require States to establish timeliness standards for both beneficiaries to return requested information to the State, as well as for the State to complete a redetermination of eligibility when the beneficiary returns information too late to process before the end of the eligibility period. In addition, these amendments will require States to establish performance and timeliness standards for

determining Medicaid eligibility, as well as determining eligibility for CHIP and BHP when an individual is determined ineligible for Medicaid.

Lastly, the amendments under § 435.912 will for the first time establish set timeframes for when States must complete existing requirements related to acting on change in circumstances. The amendments will require States to process a redetermination by the end of month that occurs 30 calendar days from the date the State receives information indicating a potential change in a beneficiary's circumstance if no information is needed from the individual to redetermine eligibility and by the end of month that occurs 60 calendar days if the State needs to request additional information from the individual.

We estimate that it will take each State 3 hours to update their Medicaid State plans via a State plan amendment (SPA) to establish timeliness standards for the State to process redeterminations. Of those 3 hours per SPA, we estimate it will take a Business Operations Specialist 2 hours at $80.08/hr and a General Operations Manager 1 hour at $118.14/hr to update and submit each SPA to us for review. In aggregate, we estimate a one-time burden of 168 hours (56 States × 3 hr) at a cost of $15,585 (56 responses × ([2 hr × $80.08/hr] + [1 hr × $118.14/hr])) for completing the necessary SPA updates. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $7,792 ($15,585 × 0.5).

b. Updating Notices and Systems

We estimate that it will take each State 6 hours to update their notices to inform beneficiaries of the newly established timeframes within which they must return requested additional information for the State to process their redeterminations. Of those 6 hours, we estimate it will take a Business Operations Specialist 4 hours at $80.08/hr and a Computer Programmer 2 hours at $98.84/hr. In aggregate, we estimate a one-time burden of 336 hours (56 States × 6 hr) at a cost of $29,008 (56 States × ([4 hr × $98.84/hr] + [2 hr × $80.08/hr])) for all States to update the notices. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $14,504 ($29,008 × 0.5).

We also estimate it will take an average of 200 hours per State to develop and code the changes to each State's system to update the timeframes for beneficiaries to return additional information and to implement a reconsideration process for beneficiaries who are disenrolled for failure to return information within the newly established timeframes but who return the information within the reconsideration period. Of those 200 hours, we estimate it will take a Business Operations Specialist 50 hours at $80.08/hr and a Management Analyst 150 hours at $100.64/hr. In aggregate, we estimate a one-time State burden of 11,200 hours (56 States × 200 hr) at a cost of $1,069,600 ([(50 hr × $80.08/hr) + (150 hr × $100.64/hr)] × 56 States) for completing the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $534,800 ($1,069,600 × 0.5).

c. Total State Cost

When taking into account the Federal contribution, we estimate a total one-time State cost of $557,096 ($7,792 + $14,504 + $534,800).

TABLE 10: Administrative Burden and Savings for States and Individual from Changes to §§ 435.912 and 457.340

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.912 and 457.340	56	56	6	336	$ 80.08	$29,008	$14,504	n/a	n/a	One-Time
§§ 435.912 and 457.340	56	56	200	11,200	$ 80.08	$1,069,600	$534,800	n/a	n/a	One-Time
§§ 435.912 and 457.340	56	56	3	168	Varies	$15,585	$7,792	n/a	n/a	One-Time
§§ 435.912 and 457.340 - State Subtotal	***56***	***168***	***209***	***11,704***	***Varies***	***$ 1,114,193***	***$ 557,096***	***n/a***	***n/a***	***One-Time***

7. Agency Action on Updated Address Information (§§ 435.919 and 457.344)

This rule establishes the steps States must take when beneficiary mail is returned to the agency. All States must establish a data exchange to obtain updated beneficiary contact information from the USPS and contracted managed care plans. When updated in-State contact information is found, States must accept that information as reliable, update the beneficiary's case record, and notify the beneficiary of the change. If an in-State change of address is obtained from other data sources and

cannot be confirmed as reliable by information available from USPS or contracted managed care plans, then the State must make a good-faith effort (at least two attempts to contact the beneficiary through at least two different modalities) to confirm the change. When updated out-of-State contact information is obtained from any source, the State must always make a good-faith effort to contact the beneficiary. If the State is unable to confirm that the beneficiary continues to meet State residency requirements, the State must terminate the beneficiary's eligibility, subject to notice and fair hearing rights. When mail is returned with no forwarding address, and the State is unable to obtain a new address (after making a good-faith effort), the State must suspend or terminate the beneficiary's enrollment, or move the beneficiary from a managed care program to fee-for-service Medicaid.

In the September 2022 proposed rule, we estimated that, to implement this provision, States with managed care delivery systems in their Medicaid and CHIP programs would need to update their contracts to enter into regular data sharing arrangements with their managed care plans to obtain up-to-date beneficiary contact information. However, we know now that all States with managed care delivery systems have already done this as a part of their activities to unwind from the COVID–19 PHE, and so we are omitting this burden estimate from this final rule.

In the same September 2022 proposed rule, we estimated, using our own analysis, that about half of all States (56 States/2 = 28 States) currently check DMV data for updated beneficiary information, such as contact information, as a part of their routine verification plans. Using this as a proxy for whether the State has an agreement with third-party sources, for example, the NCOA database, etc., we estimated that it would take 28 States each 40 hours to establish these data-sharing agreements. Through ongoing monitoring of States' activities to unwind from the COVID–19 PHE, we now know that 37 States have waiver authority under section 1902(e)(14)(A) of the Act to check the NCOA database and update beneficiary contact information based on that information without checking with the beneficiary first, and so we no longer need to use a proxy here. We are updating our estimate that the additional burden of implementing this provision will apply to only 19 States (56 States − 37 States with waiver authority) instead of 28, thus reducing the burden. Of those 40 hours, we estimate it will take a Procurement Clerk 10 hours at $44.76/hr and a Management Analyst 30 hours at $100.64/hr. In aggregate, we estimate a one-time burden of 760 hours (40 hr × 19 States) at a cost of $65,869 ([(10 hr × $44.76/hr) + (30 hr × $100.64/hr)] × 19 States). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $32,935 ($65,869 × 0.5).

In the September 2022 proposed rule, we also assumed that 15 percent [38] of all Medicaid beneficiaries (12,871,377 beneficiaries = 85,809,179 beneficiaries × 0.15) [39] generate returned mail each year, and so we estimated that it will take 51 States each 30 seconds (approximately 0.0083 hr) per notice to send one additional notice by mail not only to the current address on file, but also to the forwarding address, if one is provided. However, in this final rule we are amending our proposal, as described in detail in section II.B.4. of this preamble, to only require that States send a single notice by mail to the forwarding address. Therefore, we revise our estimate here to omit the burden for mailing an additional notice to the original address on file. We estimate that it will take a Management Analyst in each State 0.0083 hr/notice at $100.64/hr to program the sending of one extra notice for a total of 106,832 hours (0.0083 hr × 12,871,377 beneficiaries) at a cost of $10,751,616 (106,832 hr × $100.64/hr). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $5,375,808 ($10,751,616 × 0.5). We also estimate this amendment will create additional burden in postage costs for all States totaling $7,722,826 ($0.60/notice [40] × 12,871,377 [41]). When taking into account the 50 percent Federal contribution, the estimated State share will be $3,861,413 ($7,722,826 × 0.5). In aggregate for the above burdens, taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $9,237,221 ($5,375,808 + $3,861,413).

We estimate that it will take an Eligibility Interviewer an average of 5 minutes (0.083 hr) per beneficiary at $48.10/hr to make one additional outreach attempt using a modality other than mail to the estimated 12,871,377 beneficiaries per year for whom the State receives returned mail. Because this final rule permits States to automatically update in-State changes of address when they can be verified by USPS or a contracted managed care plan, we do not believe States will need to conduct additional outreach to all 12.9 million beneficiaries. However, until we have a better understanding of the volume of returned mail that will require such follow-up outreach, we are maintaining our proposed estimate here. In aggregate, we estimate this will add 1,068,324 hours (0.083 hr × 12,871,377 beneficiaries) at a cost of $51,386,398 (1,068,324 hr × $48.10/hr). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $25,693,199 ($51,386,398 × 0.5).

In total, for the burden related to §§ 435.919 and 457.344, when taking into account the 50 percent Federal contribution, we estimate a total State cost of $34,963,355 ($32,935 + $9,237,221 + $25,693,199).

We estimate that current State policies on returned mail may have contributed to a drop of approximately 2.125 percent in enrollment.[42] Applying that change, we estimate that 273,517 beneficiaries in total (12,871,377 beneficiaries × 0.02125), or 5,363 beneficiaries in each of 51 States, will no longer be disenrolled after non-response to a State notice generated by returned mail and will no longer need to reapply to Medicaid. Therefore, we estimate that these amendments will lead to a reduction in burden for 273,517 beneficiaries who will otherwise be disenrolled after generating returned mail. We estimate that these beneficiaries will each save 2 hours of time not needed to reapply for Medicaid at $21.98/hr. In aggregate, we estimate this amendment will save beneficiaries in all States minus 547,034

[38] KHN, November 9, 2019, ''Return to Sender: A Single Undeliverable Letter Can Mean Losing Medicaid.'' Available at *https://khn.org/news/tougher-returned-mail-policies-add-to-medicaid-enrollment-drop/*.

[39] Centers for Medicare & Medicaid Services, ''October and November 2021 Medicaid and CHIP Enrollment Trends Snapshot,'' March 28, 2022. Available at *https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/downloads/october-november-2021-medicaid-chip-enrollment-trend-snapshot.pdf*.

[40] This amount is based on the current USPS postage rate for standard letters.

[41] While this provision applies to all States, Washington, DC, and the 5 territories, we are only estimating the burden for the 51 States for which we have current enrollment data, per the November 2021 CMS enrollment snapshot available at *https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/downloads/october-november-2021-medicaid-chip-enrollment-trend-snapshot.pdf*.

[42] KHN, November 9, 2019, ''Return to Sender: A Single Undeliverable Letter Can Mean Losing Medicaid.'' Available at *https://khn.org/news/tougher-returned-mail-policies-add-to-medicaid-enrollment-drop/*.

hours (−273,517 beneficiaries × 2 hr) and minus $12,023,807 (−547,034 hr × $21.98/hr).

TABLE 11: Administrative Burden and Savings for States and Individual from Changes to §§ 435.919 and 457.344

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.919 and 457.344	51	273,517	(2)	(547,034)	$ 21.98	n/a	n/a	$ (12,023,797)	n/a	Annual
§§ 435.919 and 457.344	51	12,871,377	n/a	n/a	n/a	n/a	$ 3,861,413	n/a	$7,722,826	Annual
§§ 435.919 and 457.344	19	19	40	760	$ 44.76	$65,869	$ 32,935	n/a	n/a	One-Time
§§ 435.919 and 457.344	51	12,871,377	0	106,832	$ 100.64	$ 10,751,616	$ 5,375,808	n/a	n/a	Annual
§§ 435.919 and 457.344	51	12,871,377	0	1,068,324	$ 48.10	$ 51,386,398	$ 25,693,199	n/a	n/a	Annual
§§ 435.919 and 457.344 - Individual Subtotal	***51***	***273,517***	***(2)***	***(547,034)***	***$ 21.98***	***n/a***	***n/a***	***$ (12,023,797)***	***n/a***	***Annual***
§§ 435.919 and 457.344 - State Subtotal	***51***	***38,614,150***	***Varies***	***1,175,917***	***Varies***	***$ 62,203,883***	***$ 34,963,354***	n/a	***$ 7,722,826***	***Both***

8. Improving Transitions Between Medicaid and CHIP (§§ 435.1200, 457.340, 457.348, 457.350, and 600.330)

In States with separate Medicaid and CHIP programs, § 435.1200 will require both the Medicaid and CHIP agencies to make system changes to transition the eligibility of individuals more seamlessly from one program to the other. We have not included a burden estimate for changes to the BHP regulations, since revisions to the Medicaid cross-references are intended to maintain current BHP policies.

We estimate that § 435.1200 will take each of the 40 States with a separate CHIP 40 hours to execute a delegation agreement between the Medicaid and CHIP agencies to implement more seamless coverage transitions. Of those 40 hours, we estimate it will take a Procurement Clerk 10 hours at $44.76/hr and a Management Analyst 30 hours at $100.64/hr. In aggregate, we estimate a one-time burden of 1,600 hours (40 hr × 40 States) at a cost of $138,672 [(10 hr × $44.76/hr) + (30 hr × $100.64/hr) × 40 States]. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $69,336 ($138,672 × 0.5).

We estimate that it will take all 40 States with a separate CHIP an average of 42 hours each to review any policy differences between their Medicaid and CHIP programs and make any necessary administrative actions to permit coordination of enrollment, such as a delegation of eligibility determinations or alignment of financial eligibility requirements between the two programs. Of those 42 hours, we estimate it will take a Business Operations Specialist 22 hours at $80.08/hr and a Management Analyst 20 hours at $100.64/hr. In aggregate, we estimate a one-time burden of 1,680 hours (40 States × 42 hr) at a cost of $150,982 [[(22 hr × $80.08/hr) + (20 hr × $100.64/hr)] × 40 States) to review and make necessary policy changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $75,491 ($150,982 × 0.5).

We estimate that it will take all 40 States with a separate CHIP 200 hours to make changes to their shared eligibility system or service to determine, based on available information, whether an individual is eligible for Medicaid or CHIP when determined ineligible for the other program and before a notice of ineligibility is sent. Of those 200 hours, we estimate it will take a Business

Operations Specialist 50 hours at $80.08/hr and a Management Analyst 150 hours at $100.64/hr. In aggregate, we estimate a one-time burden for all 40 States of 8,000 hours (40 States × 200 hr) at a cost of $764,000 ([(50 hr × $80.08/hr) + (150 hr × $100.64/hr)] × 40 States) for completing the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $382,000 ($764,000 × 0.5).

We estimate that 25 percent of States with a separate CHIP (40 States × 0.25 = 10) are already using combined notices and will see no additional burden from this provision. For the 30 of the 40 States with separate CHIPs who do not currently use a combined notice, we estimate that it will take 6 hours to develop or update a combined eligibility notice for individuals determined ineligible for Medicaid and eligible for CHIP or vice versa and 40 hours to make the system changes necessary to implement it. Of those 46 hours, we estimate that it will take a Business Operations Specialist 14 hours at $80.08/hr and a Management Analyst 32 hours at $100.64/hr. In aggregate, we estimate a one-time burden of 1,380 hours (30 States × 46 hr) at a cost of $130,248 ([(14 hr × $80.08/hr) + (32 hr × $100.64/hr)] × 30 States) to develop the notice. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $65,124 ($130,248 × 0.5).

For the burden related to §§ 435.1200, 457.340, 457.348, 457.350, and 600.330, when taking into account the Federal contribution, we estimate a total cost of $591,951 ($69,336 + $75,491 + $382,000 + $65,124).

We also estimate that this provision will save each beneficiary on average 3 hours to no longer submit a renewal form once they have been determined ineligible for one program and determined potentially eligible for another insurance affordability program based on available information. Assuming 1 percent of beneficiaries (85,809,179 beneficiaries × 0.01 = 858,092 beneficiaries) currently submit a Medicaid renewal for this reason, in aggregate, we estimate an annual saving for beneficiaries in all States of minus 2,574,276 hours (−3 hr × 858,092 individuals) and minus $56,582,586 (−2,574,276 hr × $21.98/hr).

We estimate that it will save each beneficiary 4 hours previously spent reapplying for coverage. Assuming 0.25 percent of beneficiaries (214,523 beneficiaries = 85,809,179 beneficiaries × 0.0025) currently lose coverage for failure to return a renewal form when no longer eligible, instead of being transitioned to the program for which they are eligible, we estimate an annual saving for beneficiaries in all States of minus 858,092 hours (−4 hr × 214,523 individuals) and minus $18,860,862 (−858,092 hr × $21.98/hr).

For beneficiaries, we estimate a total savings of minus $75,443,448 (−$56,582,586 − $18,860,862).

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TABLE 12: Administrative Burden and Savings for States and Individual from Changes to §§ 435.1200, 457.340, 457.348, 457.350, and 600.330

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330	56	858,092	(3)	(2,574,276)	$ 21.98	n/a	n/a	$ (56,582,586)	n/a	Annual
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330	56	214,523	(4)	(858,092)	$ 21.98	n/a	n/a	$ (18,860,862)	n/a	Annual
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330	40	40	40	1,600	Varies	$138,672	$69,336	n/a	n/a	One-Time
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330	30	30	46	1,380	Varies	$130,248	$65,124	n/a	n/a	One-Time

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330	40	40	42	1,680	Varies	$150,982	$75,491	n/a	n/a	One-Time
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330	40	40	200	8,000	Varies	$764,000	$382,000	n/a	n/a	One-Time
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330 - Individual Subtotal	***56***	***1,072,615***	***Varies***	***(3,432,368)***	***$ 21.98***	n/a	n/a	***$ (75,443,449)***	n/a	***Annual***
§§ 435.1200, 457.340, 457.348, 457.350, and 600.330 - State Subtotal	***40***	***150***	***Varies***	***12,660***	***Varies***	***$ 1,183,902***	***$ 591,951***	n/a	n/a	***One-Time***

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9. Eliminating Requirement To Apply for Other Benefits (§ 435.608)

This rule removes the requirement at § 435.608 that State Medicaid agencies must require all Medicaid applicants and beneficiaries, as a condition of their eligibility, to take all necessary steps to obtain any benefits to which they are entitled. The requirement applies to adults only, which equates to approximately 46,000,000 Medicaid applicants.[43] Most individuals already apply for other benefits such as Veterans' compensation and pensions, Social Security disability insurance and retirement benefits, and unemployment compensation, because they want to receive them. As such, the requirement only impacts those individuals who applied for a benefit solely to obtain or keep Medicaid coverage.

If we estimate that, in a year, 5 percent of beneficiaries need to apply for another benefit, that will be 2,300,000 people who are no longer required to apply due to the removal of this provision. However, the burden of this requirement on beneficiaries with respect to the collection of information relates to the application requirements of other agencies, and therefore we did not estimate the burden reduction for Medicaid and CHIP.

We estimate it will take an average of 200 hours per State to develop and code the changes to each State's application system to eliminate the trigger for the Medicaid applicant to apply for other benefit programs. Of those 200 hours, we estimate it will take a Database and Network Administrator and Architect 50 hours at $106.16/hr and a Computer Programmer 150 hours at $98.84/hr. For States, we estimate a total one-time burden of 11,200 hours (56 States × 200 hr) at a cost of $1,127,504 ([(50 hr × $106.16/hr) + (150 hr × $98.84/hr)] × 56 States) to complete the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $563,752 ($1,127,504 × 0.5).

[43] CMS, *November 2021 Medicaid & CHIP Enrollment.* Available at *https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html.*

TABLE 13: Administrative Burden and Savings for States and Individual from Changes to § 435.608

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§ 435.608 - State Subtotal	*56*	*56*	*200*	*11,200*	*Varies*	*$1,127,504*	*$563,752*	*n/a*	*n/a*	*One-Time*

10. Removing Optional Limitation on the Number of Reasonable Opportunity Periods (§ 435.956)

This provision does not create any new or revised reporting, recordkeeping, or third-party disclosure requirements or burden. We are finalizing the proposal to revise § 435.956(b)(4) to remove the option for States to establish limits on the number of ROPs. Under revised § 435.956(b)(4), all 56 States will be prohibited from imposing limitations on the number of ROPs that an individual may receive.

Since the option was established, only one State submitted a SPA requesting to implement this option and implemented via a 12-month pilot. Following the pilot, the State suspended the policy of limiting the ROP period and removed the option from its State Plan. Other than the one State, we have not received any inquiries about establishing such a limitation. Therefore, we estimate that the amendments to § 435.956(b)(4) will not lead to any change in burden on States.

11. Eliminating Requirement To Apply for Other Benefits (§§ 435.608 and 436.608)

We anticipate a reduction in administrative burden for States resulting from the elimination of the requirement to apply for other benefits outlined in the preamble of this final rule. Specifically, we estimate that this provision would save State Eligibility Interviewers on average 1 hour per enrollee at $48.10/hr from no longer needing to prepare and send notices and requests for additional information about applying for other benefits, or to process requests for good cause exemptions. In aggregate for all States, we estimate an annual savings of minus 2,300,000 hours (1 hr × 2.3M enrollees) and minus $110,630,000 (2,300,000 hrs × $48.10/hr). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $55,315,000.

We also estimate that this provision would save each enrollee who otherwise meets all requirements to be enrolled or remain enrolled in Medicaid but who, absent this provision, would lose Medicaid coverage due to failure to provide information on application for other benefits on average 2 hours at $21.98/hr. In aggregate, we estimate that enrollees in all States would save minus 4,600,000 hours (2 hrs × 2,300,000 enrollees) and minus $101,108,000 (4,600,000 hrs × $21.98/hr) annually.

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TABLE 14: Administrative Burden and Savings for States and Individual from Changes to §§ 435.608 and 436.608

Regulation Section(s)	# of Respondants (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total Labor Cost ($)	Total State Share ($)	Total Beneficiary Time (Hours)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 435.608 and 436.608	56	2,300,000	1	(2,300,000)	$ 48.10	$ (110,630,000)	$ (55,315,000)	n/a	n/a	n/a	Annual
§§ 435.608 and 436.608	56	56	200	11,200	$ 98.84	$ 1,127,504	$ 563,752	n/a	n/a	n/a	One-Time
§§ 435.608 and 436.608 - Individual Subtotal	56	2,300,000	2	(4,600,000)	$ 21.98	n/a	n/a	(4,600,000)	$ (101,108,000)	n/a	Annual
§§ 435.608 and 436.608 - State Subtotal	56	2,300,056	Varies	(2,288,800)	Varies	(109,502,496)	(54,751,248)	(4,600,000)	$ (101,108,000)	n/a	Both

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12. Recordkeeping (§§ 431.17 and 457.965)

The amendments under §§ 431.17 (Medicaid) and 457.965 (CHIP) clearly delineate the types of information that States must maintain in Medicaid and CHIP case records while the case is active in addition to the minimum retention period of 3 years. This final rule clearly defines the records, such as the date and basis of any determination and the notices provided to the applicant/beneficiary. Sections 431.17(c) and 457.965(c) establish a minimum records retention period of 3 years, and §§ 431.17(d) and 457.965(d) require that records be stored in an electronic format and that such records be made available to appropriate parties within 30 days of a request if not otherwise specified.

We recognize that States are in various stages of electronic recordkeeping today and that a portion of non-MAGI beneficiary case records are currently stored in a paper-based format, along with a small portion of MAGI-based beneficiary case records. Therefore, under §§ 431.17(c) and 457.965(c), we estimate it will take an average of 20 hours per State for a Management Analyst at $100.64/hr to update each State's policies and procedures to retain records electronically for 3 years minimum as well as the other changes finalized in this rule. In aggregate, we estimate a one-time burden of 1,120 hours (56 States × 20 hr) at a cost of $112,717 (1,120 hr × $100.64/hr) for completing the necessary updates. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $56,358 ($112,717 × 0.5).

TABLE 15: Administrative Burden and Savings for States and Individual from Changes to §§ 431.17 and 457.965

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 431.17 and 457.965 - State Subtotal	56	56	20	1,120	$ 100.64	$112,717	$56,358	n/a	n/a	One-Time

13. Prohibiting Premium Lock-Out Periods and Disenrollment for Failure To Pay Premiums (§§ 457.570 and 600.525(b)(2))

a. CHIP State Plan Changes

The amendments to §§ 457.570 and 600.525(b)(2) will eliminate the option for States to impose premium lock-out periods in CHIP and in States with a BHP that allows continuous open enrollment throughout the year.

Under § 457.570, we estimate it will take a Management Analyst 2 hours at $100.64/hr and a General and Operations Manager 1 hour at $118.14/hr in all 14 States that currently impose lock-out periods to amend their CHIP State plans to remove the lock-out period and submit in the Medicaid Model Data Lab (MMDL) portal for review. We estimate an aggregate one-time burden of 42 hours (14 States × 3 hr) at a cost of $4,472 (([2 hr × $100.64/hr] + [1 hr × $118.14/hr]) × 14 States). Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $2,236 ($4,472 × 0.5).

b. BHP Blueprint Changes

Our amendments will require BHP States to revise their BHP Blueprints to remove the premium lock-out period. Under § 600.525(b)(2), in the one BHP State that imposes a lock-out period, we estimate it will take a Management Analyst 2 hours at $100.64/hr and a General and Operations Manager 1 hour at $118.14/hr to revise their BHP Blueprints to remove the premium lock-out period. We estimate an aggregate one-time burden of 3 hours (1 State × 3 hr) at a cost of $319 (([2 hr × $100.64/hr] + [1 hr × $118.14/hr]) × 1 State).

c. Total State Cost

In total for the burden related to §§ 457.570 and 600.525(b)(2), taking into account the Federal contribution for the CHIP-related changes, we estimate a total one-time cost for the State of $2,555 ($2,236 + $319).

TABLE 16: Administrative Burden and Savings for States and Individual from Changes to §§ 457.570 and 600.525(b)(2)

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 457.570 and 600.525(b)(2)	14	14	3	42	Varies	$4,472	$2,236	n/a	n/a	One-Time
§§ 457.570 and 600.525(b)(2)	1	1	3	3	Varies	$319	$319	n/a	n/a	One-Time
§§ 457.570 and 600.525(b)(2) - State Subtotal	14	15	3	45	Varies	$ 4,791	$ 2,555	n/a	n/a	One-Time

14. Prohibition on Waiting Periods in CHIP (§§ 457.65, 457.340, 457.350, 457.805, and 457.810)

The amendments to §§ 457.65, 457.340, 457.350, 457.805, and 457.810 in the September 2022 proposed rule will eliminate the State option to impose a waiting period for families with children eligible for CHIP who were recently enrolled in a group health plan.

Currently, 11 States with a separate CHIP program impose waiting periods between 1 month and 90 days. We estimate that the amendments will require these 11 States to process CHIP applications earlier than under current rules and without evaluating whether the applicant just lost coverage through a group health plan. Therefore, these States will need to update their applications to eliminate the question requesting attestation of recently lost coverage and all related follow-up questions evaluating whether the person falls into an exception for a waiting period. If the State uses a data source to check for other coverage, the State will need to update the application to remove the trigger to query the data source.

We estimate it will take an average of 200 hours in each of these 11 States to develop and code the changes to each State's application to remove all questions and queries related to recently lost coverage. Of those 200 hours, we estimate it will take a Database and Network Administrator and Architect 50 hours at $106.16/hr and a Computer Programmer 150 hours at $98.84/hr. In aggregate, we estimate a one-time burden of 2,200 hours (11 States × 200 hr) at a cost of $221,474 ([(50 hr × $106.16/hr) + (150 hr × $98.84/hr)] × 11 States) for completing the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $110,737 ($221,474 × 0.5).

We estimate it will take an average of 3 hours in each of 11 unique States to update each State's CHIP SPAs in MMDL to eliminate the waiting period and to document the other strategies the States will use to monitor substitution of coverage. We estimate it will take a General and Operations Manager 1 hour at $118.14/hr and a Business Operations Specialist 2 hours at $80.08/hr. In aggregate, we estimate a one-time burden for all States of 33 hours (11 States × 3 hr) and $3,061 ([(1 hr × $118.14/hr) + (2 hr × $80.08/hr)] × 11 States) for completing the necessary SPA updates. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $1,531 ($3,061 × 0.5).

In total for the burden related to §§ 457.65, 457.340, 457.350, 457.805, and 457.810, and taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $112,268 ($110,737 + $1,531).

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TABLE 17: Administrative Burden and Savings for States and Individual from Changes to §§ 457.65, 457.340, 457.350, 457.805, and 457.810

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total State Labor Cost ($)	Total State Share ($)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§§ 457.65, 457.340, 457.350, 457.805, and 457.810	11	11	200	2,200	varies	$221,474	$110,737	n/a	n/a	One-Time
§§ 457.65, 457.340, 457.350, 457.805, and 457.810	11	11	3	33	Varies	$3,061	$1,531	n/a	n/a	One-Time
§§ 457.65, 457.340, 457.350, 457.805, and 457.810 - State Subtotal	11	22	Varies	2,233	Varies	$ 224,535	$ 112,268	n/a	n/a	One-Time

BILLING CODE 4120–01–C

15. Prohibiting Annual and Lifetime Limits on Benefits (§ 457.480)

a. Programming Changes to Annual and Lifetime Limits

The amendments to § 457.480 will prohibit annual and lifetime dollar limits in the provision of all CHIP medical and dental benefits. Currently, 13 unique States place either an annual or lifetime dollar limit on at least 1 CHIP benefit. Twelve of the 13 States place an annual dollar limit on at least one CHIP benefit (AL, AR, CO, IA, MI, MS, MT, OK, PA, TN, TX, and UT), and six of the 13 States place a lifetime dollar limit on at least one benefit (CO, CT, MS, PA, TN, and TX). We estimate that the amendments will require 13 States to update their systems and their CHIP SPAs to eliminate annual or lifetime benefit limits.

We estimate it will take an average of 20 hours to develop and code the changes to remove just 1 limit on either an annual or lifetime benefit. Of those 20 hours, we estimate it will take a Database and Network Administrator and Architect 5 hours at $106.16/hr and a Computer Programmer 15 hours at $98.84/hr. In aggregate, we estimate a one-time burden across all 13 States of 260 hours (20 hr × 13 States) and $26,174 ([(5 hr × $106.16/hr) + (15 hr × $98.84/hr)] × 13 States) for completing the necessary system changes. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $13,087 ($26,174 × 0.5).

b. Updating CHIP SPAs

The amendments to § 457.480 will require States to submit updated CHIP SPAs. We estimate it will take an average of 3 hours in each of 13 unique States to update each State's CHIP SPAs in MMDL to remove each of 21 different limits on annual and/or lifetime benefits (calculated as 21/13, or approximately 1.62, limits per State if distributed evenly). Of those 3 hours, we estimate it will take a General and Operations Manager 1 hour at $118.14/hr and a Business Operations Specialist 2 hours at $80.08/hr for a per State total of 5 hours (3 hr/limit × 1.62 limits). In aggregate, we estimate a one-time burden for all States of 65 hours (13 States × 3 hr × 1.62 limits/State) and $5,844 ([(1 hr × $118.14/hr) + (2 hr × $80.08/hr)] × 21 limits) for completing the necessary SPA updates. Taking into account the 50 percent Federal contribution to Medicaid and CHIP program administration, the estimated State share will be $2,922 ($5,844 × 0.5).

c. Total State Cost

In total for the burden related to § 457.480, taking into account the 50 percent Federal contribution, we estimate a total one-time State cost of $16,009 ($13,087 + $2,922).

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TABLE 18: Administrative Burden and Savings for States and Individual from Changes to § 457.480

Regulation Section(s)	# of Respondents (States)	Total # of Responses	Time per Response (Hours)	Total Time (Hours)	Hourly Labor Cost ($/hr)	Total Labor Cost ($)	Total State Share ($)	Total Beneficiary Time (Hours)	Total Beneficiary Cost ($)	Total Non-Labor Cost ($)	Frequency
§ 457.480	13	13	20	260	Varies	$26,174	$13,087	n/a	n/a	n/a	One-Time
§ 457.480	13	21	3	65	Varies	$5,844	$2,922	n/a	n/a	n/a	One-Time
§ 457.480 - State Subtotal	***13***	***34***	***23***	***325***	***Varies***	***$ 32,019***	***$ 16,009***	-	***$ -***	***n/a***	***One-Time***

BILLING CODE 4120–01–C

16. Provisions To Facilitate Medicaid Enrollment

For provisions that would facilitate Medicaid enrollment (including the electronic verification and reasonable compatibility standard; facilitating enrollment by allowing medically needy individuals to deduct prospective medical expenses; and the verification of citizenship and identity), we assumed that these provisions would increase enrollment by about 0.1 percent among aged enrollees and enrollees with disabilities and would have a negligible impact on other categories of enrollees. We estimated that this would increase enrollment by about 20,000 person-year equivalents by 2028.

TABLE 19: Impact of Provisions to Facilitate Enrollment on Medicaid Expenditures and Enrollment (expenditures in millions of dollars, enrollment in millions of person-year equivalents)

	2024	2025	2026	2027	2028
Enrollment	0.02	0.02	0.02	0.02	0.02
Total Spending	460	460	480	490	500
Federal Spending	260	270	280	280	290

17. Promoting Enrollment and Retention of Eligible Individuals

These provisions are expected to increase coverage by assisting persons with gaining and maintaining Medicaid coverage. We have considered several effects of the provisions in this final rule.

First, we estimated the impacts of aligning non-MAGI enrollment and renewal requirements with MAGI policy. We anticipate that this provision would increase the number of member months of coverage among enrollees eligible based on non-MAGI criteria (older adults and persons with disabilities). In an analysis of dually eligible enrollees from 2015 to 2018, we found that about 29 percent of new dually eligible enrollees lost coverage for at least 1 month in the first year of coverage, and about 24 percent lost coverage for at least 3 months. While some of this loss of coverage is likely due to enrollees no longer being eligible, we expect that many enrollees may still be eligible despite losing coverage, and that this provision would assist enrollees in continuing coverage. We assumed that this provision would increase enrollment among aged enrollees and enrollees with disabilities by about 1 percent.

For all other provisions under this section, we assumed that they would increase coverage for children by about 1 percent and for all other enrollees by about 0.75 percent. In particular, we assumed that provisions for acting on changes in circumstances, timely eligibility determinations and redeterminations, and action on returned mail would all contribute to modest increases in enrollment (mostly through continuing coverage for persons already enrolled) and that the provision to improve transitions between Medicaid and CHIP would further increase Medicaid enrollment.

In total, we estimated these provisions would increase enrollment by about 890,000 person-year equivalents by 2028.

TABLE 20: Impact of Provisions to Promote Enrollment and Retention on Medicaid Expenditures and Enrollment (expenditures in millions of dollars, enrollment in millions of person-year equivalents)

	2024	2025	2026	2027	2028
Enrollment	0.12	0.43	0.70	0.88	0.89
Total Spending	1,180	5,210	8,670	11,220	11,450
Federal Spending	720	3,170	5,270	6,820	6,960

18. Eliminating Barriers to Access in Medicaid

We assumed that removing or limiting requirements to apply for other benefits as a condition of Medicaid enrollment would lead to an increase in Medicaid coverage. We have not assessed the impacts across different benefits (that is, SSI, TANF, etc.). We assumed that this would increase overall enrollment by about 0.5 percent, or about 420,000 person-year equivalents by 2028.

We have assumed that removing optional limitations on the number of reasonable opportunity periods would have a negligible impact on Medicaid enrollment and expenditures.

TABLE 21: Impact of Provisions to Eliminate barriers to access in Medicaid on Medicaid Expenditures and Enrollment (expenditures in millions of dollars, enrollment in millions of person-year equivalents)

	2024	2025	2026	2027	2028
Enrollment	0.20	0.41	0.40	0.41	0.42
Total Spending	2,040	4,080	4,160	4,230	4,320
Federal Spending	1,300	2,570	2,630	2,680	2,740

19. CHIP Changes and Eliminating Access Barriers in CHIP

We estimated that changes to CHIP enrollment (including timely determinations and redeterminations, acting on changes in circumstances, acting on returned mail, and improving transitions between CHIP and Medicaid) would increase CHIP enrollment by about 1 percent. These are comparable to the impacts on Medicaid children of the comparable Medicaid provisions.

For prohibitions on premium lockout periods and waiting periods, there are currently 14 States that have such lockout periods and 11 States that have waiting periods for CHIP enrollment. We assumed that in those States, removing these barriers to coverage would increase enrollment by about 1 percent. We assumed that prohibiting annual and lifetime limits on benefits in CHIP would have a negligible impact.

In total, we estimate these provisions would increase enrollment by about 130,000 person-year equivalents by 2028.

TABLE 22: Impact of Provisions to Promote Enrollment and Retention in CHIP and Reduce Barriers to Coverage on CHIP Expenditures and Enrollment (expenditures in millions of dollars, enrollment in millions of person-year equivalents)

	2024	2025	2026	2027	2028
Enrollment	0.03	0.09	0.11	0.13	0.13
Total Spending	90	320	380	420	430
Federal Spending	60	220	260	300	310

20. Impacts on the Marketplaces

We anticipate that many of the enrollees that would either be gaining Medicaid or CHIP coverage or retaining Medicaid or CHIP coverage as a result of this final rule would have had other coverage under current policies. In particular, we expect that many of the children and adults would have enrolled in the Marketplace and been eligible for subsidized care.

To estimate the impacts this final rule would have on Marketplace expenditures, we started by calculating the cost of care and Federal subsidy payments for different households shifting from Medicaid and CHIP to Marketplace coverage. We made the following assumptions. We estimated that health care prices are 30 percent higher in Marketplace plans than in Medicaid and CHIP, and that the average percentage of costs for non-benefit costs in managed care programs was 10 percent—this also considers that some beneficiaries receive all or part of their care outside of managed care delivery systems. Next, we assumed that individuals would reduce health spending by 10 percent in the Marketplace due to increased cost sharing requirements. We used an actuarial value of 70 percent, consistent with silver level plans on the Marketplace, and assumed that the average percentage of non-benefit costs in Marketplace plans was 20 percent. Finally, we assumed that the average income of persons shifting from Medicaid and CHIP to Marketplace coverage would be 125 percent of the Federal poverty level (FPL) and that the premium tax credits would be calculated assuming that they would not have to pay any contribution in 2024 and 2025 under the Inflation Reduction Act of 2022, and that they would have to pay 2 percent of income for coverage for 2026 and beyond.

We calculated the amount of Federal subsidies (measured by premium tax credits) for households of one adult, two adults, one adult and one child, one adult and two children, and two adults and two children, and then calculated the total Federal cost of Marketplace coverage to be consistent with the distribution of projected enrollment change in Medicaid and CHIP under this final rule. We made a final assumption that 60 percent of individuals would have enrolled in Marketplace coverage, and the remaining 40 percent would have either received other coverage or become uninsured.

We estimated that Marketplace costs would have decreased by $3.8 billion in 2022 under the policies in this final rule. To project costs for future years that would be affected by this final rule,

we assumed that per capita costs, premiums, and Federal subsidies would increase consistent with the projected growth rates in the President's Budget with adjustments to account for the impacts of the Inflation Reduction Act of 2022, and that enrollment would increase consistent with the projections made for the Medicaid and CHIP provisions of this final rule.

TABLE 23: Projected change in Federal Marketplace subsidy expenditures (in millions of 2024 dollars)

	2024	2025	2026	2027	2028
Federal Marketplace subsidies	-1,070	-2,740	-3,490	-4,040	-4,100

There is a wide range of possible savings due to this effect of this final rule. For these estimates, participation in the Marketplace and health care costs and prices may vary from what we assumed here. Thus, actual savings could be greater or less than estimated here. This uncertainty is addressed in the high and low range estimates provided in the accounting statement (see section IV.F. of this final rule).

21. Total

In total, we project that these provisions would increase Medicaid enrollment by 1.33 million by 2028 and would increase total Medicaid spending by $58,950 million from 2024 through 2028. Of that amount, we estimate that $36,240 million would be paid by the Federal Government and $22,710 million would be paid by the States. We also estimate that CHIP enrollment would increase by 0.13 million by 2028, and that total CHIP expenditures would increase by $1,640 million from 2024 to 2028 ($1,150 Federal and $490 million State costs). Table 24 shows the net impacts for Medicaid and for CHIP.

TABLE 24: Impact of Provisions on Medicaid and CHIP Expenditures and Enrollment (expenditures in millions of dollars, enrollment in millions of person-year equivalents)

Medicaid	2024	2025	2026	2027	2028	2024-2028
Enrollment	0.34	0.86	1.12	1.32	1.33	
Total Spending	3,680	9,750	13,310	15,940	16,270	58,950
Federal Spending	2,280	6,010	8,180	9,780	9,990	36,240
State Spending	1,400	3,740	5,130	6,160	6,280	22,710
CHIP	2024	2025	2026	2027	2028	2024-2028
Enrollment	0.03	0.09	0.11	0.13	0.13	
Total Spending	90	320	380	420	430	1,640
Federal Spending	60	220	260	300	310	1,150
State Spending	30	100	120	120	120	490

In addition to the effects on Medicaid and CHIP, we have also estimated impacts on the Federal subsidies for Marketplace coverage. Table 25 shows the net impact on Federal spending for Medicaid, CHIP, and Federal Marketplace subsidies.

TABLE 25: Estimated Impacts of the Medicaid and CHIP Eligibility Rule on Federal Spending [Millions of 2024 dollars]

	2024	2025	2026	2027	2028	2024-2028
Medicaid Federal Spending	2,280	6,010	8,180	9,780	9,990	36,240
CHIP Federal Spending	60	220	260	300	310	1,150
Federal Marketplace Subsidies Federal Spending	-1,070	-2,740	-3,490	-4,040	-4,100	-15,440
Total Federal Spending	1,270	3,490	4,950	6,040	6,200	21,950

E. Alternatives Considered

In developing this final rule, the following alternatives were considered:

1. Not Proposing the Rule

We considered not finalizing this rule and maintaining the status quo. However, we believe this final rule will lead to more eligible individuals gaining access to coverage and maintaining their coverage across all States. In addition, we believe that provisions in this final rule, such as updates to the recordkeeping requirements, will reduce the incidence of improper payments and improve the integrity of the Medicaid program and CHIP.

2. Maintaining Records in Paper Format

We considered allowing States, which have not yet transitioned their enrollee records into an electronic format, to continue to maintain a paper-based record keeping system. As documented by the OIG and PERM eligibility reviews, many existing enrollee case records lack adequate information to verify decisions of Medicaid eligibility. A move to electronic recordkeeping will not only help States to ensure adequate documentation of their eligibility decisions but will also make it easier to report such information to State auditors and other relevant parties. Therefore, we proposed to require State Medicaid agencies to store records in electronic format (estimated in section IV.D. of this final rule, as a one-time cost of $56,358) and sought comment on whether States should retain flexibility to maintain records in paper or other formats that reflect evolving technology.

F. Limitations of the Analysis

There are several caveats to these estimates. Foremost, there is significant uncertainty about the actual effects of these provisions. Each of these provisions could be more or less effective than we have assumed in developing these estimates, and for many of these provisions we have made assumptions about the impacts they would have. In many cases, determining the reasons why a person may not be enrolled despite being eligible for Medicaid or CHIP is difficult to do in an analysis such as this. Therefore, these assumptions rely heavily on our judgment about the impacts of these provisions. While we believe these are reasonable estimates, we note that this could have a substantially greater or lesser impact than we have projected.

Second, there is uncertainty even under current policy in Medicaid and CHIP. Due to the COVID–19 pandemic and legislation to address the pandemic, Medicaid (and to a lesser extent, CHIP) has experienced significant increases in enrollment since the beginning of 2020. Actual underlying economic and public health conditions may differ than what we assume here.

In addition to the sources of uncertainty described previously, there are other reasons the actual impacts of these provisions may differ from the estimates. There may be differences in the impacts of these provisions across eligibility groups or States that are not reflected in these estimates. There may also be different costs per enrollee than we have assumed here—those gaining coverage altogether or keeping coverage for longer durations of time may have different costs than those who were already assumed to be enrolled in the program. Lastly, to the extent that States have discretion in provisions that are optional in this final rule or in the administration of their programs more broadly, States' efforts to implement these provisions may lead to larger or smaller impacts than estimated here.

To address these limitations, we have developed a range of impacts. We believe that the actual impacts would likely fall within a range 50 percent higher or lower than the estimates we have developed. While this is a significant range, we would note that in the context of spending in the entire Medicaid program ($839 billion in FY 2022), this is still a relatively narrow range.

G. Accounting Statement

As required by OMB Circular A–4 (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf*), we have prepared an accounting statement in Table 10 showing the classification of the transfer payments with the provisions of this final rule. These impacts are classified as transfers, with the Federal Government and States incurring additional costs and beneficiaries receiving medical benefits and reductions in out-of-pocket health care costs.

This provides our best estimates of the transfer payments outlined in the section IV.D. of this final rule. To address the significant uncertainty related to these estimates, we have assumed that the costs could be 50 percent greater than or less than we have estimated here. We recognize that this is a relatively wide range, but we note several reasons for uncertainty regarding these estimates. First, there are numerous provisions that affect Medicaid and CHIP in this rule. For several provisions, we have limited information, analysis, or comparisons to prior experience to use in developing our estimates. Thus, the range reflects that impacts of these provisions could be greater or less than we assume. In addition, given the number of provisions, there may be cases where multiple provisions would help an individual maintain coverage. This could lead to these estimates ''double counting'' some effects. We also note that there are expected impacts on the Marketplace subsidies; we believe this range adequately accounts for the potential variation in costs or savings to those programs as well. Finally, given

the significant effects of the COVID–19 pandemic and legislation intended to address this, the current outlooks for Medicaid and CHIP are less certain than typically. We provide this wider range to account for this uncertainty as well. This range provides the high-cost and low-cost ranges shown in Table 26.

TABLE 26: Accounting Statement (Millions of 2024 dollars)

Category	Primary estimate	Low estimate	High estimate	Units		
				Year dollars	Discount rate	Period covered
Annualized Monetized Transfers from Federal Government to beneficiaries	$4,220	$2,110	$6,331	2024	7%	2024-2028
	$4,316	$2,158	$6,474	2024	3%	2024-2028
Annualized Monetized Transfers from States to beneficiaries	$4,471	$2,235	$6,706	2024	7%	2024-2028
	$4,566	$2,283	$6,850	2024	3%	2024-2028

H. Waiver Fiscal Responsibility Act Requirements

The Director of OMB has waived the requirements of section 263 of the Fiscal Responsibility Act of 2023 (Pub. L. 118-5) pursuant to section 265(a)(2) of that Act.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on February 27, 2024.

List of Subjects

42 CFR Part 431

Grant programs-health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 435

Aid to families with dependent children, Grant programs-health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to families with dependent children, Grant programs-health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

42 CFR Part 457

Administrative practice and procedure, Grant programs-health, Health insurance, Reporting and recordkeeping requirements.

42 CFR Part 600

Administrative practice and procedure, Health care, Health Insurance, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

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

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 1302.

■ 2. Section 431.10 is amended by—
■ a. Redesignating paragraphs (c)(1)(i)(A)(*2*) and (*3*) as paragraphs (c)(1)(i)(A)(*4*) and (*5*), respectively; and
■ b. Adding new paragraphs (c)(1)(i)(A)(*2*) and (*3*).

The additions read as follows:

§ 431.10 Single State agency.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) * * *

(*2*) The separate Children's Health Insurance Program agency;

(*3*) The Basic Health Program agency;

* * * * *

■ 3. Section 431.17 is revised to read as follows:

§ 431.17 Maintenance of records.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the kinds of records a Medicaid agency must maintain, the minimum retention period for such records, and the conditions under which those records must be provided or made available.

(b) *Content of records.* A State plan must provide that the Medicaid agency will maintain or supervise the maintenance of the records necessary for the proper and efficient operation of the plan. The records must include all of the following:

(1) Individual records on each applicant and beneficiary that contain all of the following:

(i) All information provided on the initial application submitted through any modality described in § 435.907 of this chapter by, or on behalf of, the applicant or beneficiary, including the signature on and date of application.

(ii) The electronic account and any information or other documentation received from another insurance affordability program in accordance with § 435.1200(c) and (d) of this chapter.

(iii) The date of, basis for, and all documents or other evidence to support any determination, denial, or other adverse action, including decisions made at application, renewal, and as a result of a change in circumstance, taken with respect to the applicant or beneficiary, including all information provided by, or on behalf of, the applicant or beneficiary, and all information obtained electronically or otherwise by the agency from third-party sources.

(iv) The provision of, and payment for, services, items and other medical assistance, including the service or item provided, relevant diagnoses, the date that the service or item was provided, the practitioner or provider rendering, providing or prescribing the service or item, including their National Provider Identifier, and the full amount paid or reimbursed for the service or item, and any third-party liabilities.

(v) Any changes in circumstances reported by the individual and any actions taken by the agency in response to such reports.

(vi) All renewal forms and documentation returned by, or on behalf of, a beneficiary, to the Medicaid agency in accordance with § 435.916 of this chapter, regardless of the modality through which such forms are submitted, including the signature on the form and date received.

(vii) All notices provided to the applicant or beneficiary in accordance with § 431.206 and §§ 435.917 and 435.918 of this chapter.

(viii) All records pertaining to any fair hearings requested by, or on behalf of, the applicant or beneficiary, including each request submitted and the date of such request, the complete record of the hearing decision, as described in § 431.244(b), and the final administrative action taken by the agency following the hearing decision and date of such action.

(ix) The disposition of income and eligibility verification information received under §§ 435.940 through 435.960 of this chapter, including evidence that no information was returned from an electronic data source.

(2) Statistical, fiscal, and other records necessary for reporting and accountability as required by the Secretary.

(c) *Retention of records.* The State plan must—

(1) Except as provided in paragraph (c)(2) of this section, provide that the records required under paragraph (b) of this section will be retained for the period when the applicant or beneficiary's case is active, plus a minimum of 3 years thereafter.

(2) For beneficiaries described in section 1917(a)(1)(B), (b)(1)(B) and (b)(1)(C) of the Act, provide that the records required under paragraph (b) of this section will be retained until the State has satisfied the requirements of section 1917(b) of the Act (relating to estate recovery).

(d) *Accessibility and availability of records.* The agency must—

(1) Maintain the records described in paragraph (b) of this section in an electronic format; and

(2) Consistent with paragraph (e) of this section, and to the extent permitted under Federal law, make the records available to the Secretary, Federal and State auditors and other parties who request and are authorized to review such records within 30 calendar days of the request (or longer period specified in the request), except when there is an administrative or other emergency beyond the agency's control.

(e) *Release and safeguarding information.* The agency must provide safeguards that restrict the use or disclosure of information contained in the records described in paragraph (b) of this section in accordance with the requirements set forth in subpart F of this part.

■ 4. Section 431.213 is amended by revising paragraph (d) to read as follows:

§ 431.213 Exceptions from advance notice.

* * * * *

(d) The beneficiary's whereabouts are unknown, and the post office returns mail directed to him indicating no forwarding address (see § 435.919(f)(4) of this chapter for procedures if the beneficiary's whereabouts become known);

* * * * *

§ 431.231 [Amended]

■ 5. Section 431.231 is amended by removing and reserving paragraph (d).

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

■ 6. The authority citation for part 435 continues to read as follows:

Authority: 42 U.S.C. 1302.

■ 7. Section 435.222 is amended by revising the section heading to read as follows:

§ 435.222 Optional eligibility for reasonable classifications of individuals under age 21 with income below a MAGI-equivalent standard in specified eligibility categories.

* * * * *

■ 8. Section 435.223 is added to read as follows:

§ 435.223 Other optional eligibility for reasonable classifications of individuals under age 21.

(a) *Basis.* This section implements section 1902(a)(10)(A)(ii) of the Act.

(b) *Eligibility.* The agency may provide Medicaid to individuals under age 21 (or, at State option, under age 20, 19, or 18) or to one or more reasonable classifications of individuals under age 21 who meet the requirements described in any clause of section 1902(a)(10)(A)(ii) of the Act and implementing regulations in this subpart.

■ 9. Section 435.407 is amended by—

■ a. Adding paragraphs (a)(7) and (8);

■ b. Removing paragraphs (b)(2) and (11);

■ c. Redesignating paragraphs (b)(3) through (10) and (12) through (18) as paragraphs (b)(2) through (16), respectively; and

■ d. In newly redesignated paragraph (b)(16), removing the reference ''(17)'' and adding in its place the reference ''(15)''.

The additions read as follows:

§ 435.407 Types of acceptable documentary evidence of citizenship.

(a) * * *

(7) Verification with a State vital statistics agency documenting a record of birth.

(8) A data match with the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) Program or any other process established by DHS to verify that an individual is a citizen.

* * * * *

■ 10. Section 435.601 is amended by—

■ a. In paragraph (b)(2), removing the phrase ''specified in paragraphs (c) and (d) of this section or in § 435.121 or as permitted under § 435.831(b)(1), in determining'' and adding in its place the phrase ''specified in paragraphs (c) through (e) of this section or in § 435.121 or as permitted under paragraph (f)(1)(ii)(B) of this section, in determining'';

■ b. In paragraph (d)(1) introductory text, removing the phrase ''permitted under § 435.831(b)(1) in determining eligibility'' and adding in its place the phrase ''permitted under paragraph (e) or (f)(1)(ii)(B) of this section in determining eligibility''; and

■ c. Revising paragraph (f)(1).

The revision reads as follows:

§ 435.601 Application of financial eligibility methodologies.

* * * * *

(f) * * *

(1)(i) The State plan must specify that, except to the extent precluded in § 435.602, in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses the option described in paragraph (f)(1)(ii)(B) of this section, or chooses to apply less restrictive income and resource methodologies in accordance with paragraph (d) of this section, or both.

(ii) In the case of individuals for whom the program most closely categorically-related to the individual's status is AFDC (individuals under age 21, pregnant individuals and parents and other caretaker relatives who are not disabled, blind or age 65 or older), the agency may apply—

(A) The financial methodologies and requirements of the AFDC program; or

(B) The MAGI-based methodologies defined in § 435.603, except that, the

agency must comply with the terms of § 435.602.

* * * * *

§ 435.608 [Removed and Reserved]

■ 11. Section 435.608 is removed and reserved.

■ 12. Section 435.831 is amended by—

■ a. Redesignating paragraphs (g)(2) and (3) as paragraphs (g)(3) and (4), respectively; and

■ b. Adding new paragraph (g)(2).

The addition reads as follows:

§ 435.831 Income eligibility.

* * * * *

(g) * * *

(2) May include expenses for services that the agency has determined are reasonably constant and predictable, including but not limited to, services identified in a person-centered service plan developed pursuant to § 441.301(b)(1)(i), § 441.468(a)(1), § 441.540(b)(5), or § 441.725 of this chapter and expenses for prescription drugs, projected to the end of the budget period at the Medicaid reimbursement rate;

* * * * *

■ 13. Section 435.907 is amended by adding paragraph (c)(4) and revising paragraph (d) to read as follows:

§ 435.907 Application.

* * * * *

(c) * * *

(4) Any MAGI-exempt applications and supplemental forms must be accepted through all modalities described at paragraph (a) of this section.

(d) *Requesting information from applicants.* (1) If the agency needs to request additional information from the applicant to determine and verify eligibility in accordance with § 435.911, the agency must—

(i) Provide applicants with a reasonable period of time of no less than 15 calendar days, measured from the date the agency sends the request, to respond and provide any necessary information;

(ii) Allow applicants to provide requested information through any of the modes of submission specified in paragraph (a) of this section; and

(iii) If the applicant subsequently submits the additional information within 90 calendar days after the date of denial, or a longer period elected by the agency, treat the additional information as a new application and reconsider eligibility in accordance with the application time standards at § 435.912(c)(3) without requiring a new application; and

(2) The agency may not require an in-person interview as part of the application process.

* * * * *

■ 14. Section 435.911 is amended by removing the heading from paragraph (a) and revising paragraph (c) introductory text to read as follows:

§ 435.911 Determination of eligibility.

* * * * *

(c) For each individual who has submitted an application described in § 435.907, whose eligibility is being renewed in accordance with § 435.916, or whose eligibility is being redetermined in accordance with § 435.919 and who meets the non-financial requirements for eligibility (or for whom the agency is providing a reasonable opportunity to verify citizenship or immigration status in accordance with § 435.956(b)), the State Medicaid agency must comply with the following—

* * * * *

■ 15. Section 435.912 is revised to read as follows:

§ 435.912 Timely determination and redetermination of eligibility.

(a) *Definitions.* For purposes of this section—

Performance standards are overall standards for determining, renewing and redetermining eligibility in an efficient and timely manner across a pool of applicants or beneficiaries, and include standards for accuracy and consumer satisfaction, but do not include standards for an individual applicant's determination, renewal, or redetermination of eligibility.

Timeliness standards refer to the maximum periods of time, subject to the exceptions in paragraph (e) of this section and in accordance with § 435.911(c), in which every applicant is entitled to a determination of eligibility, a redetermination of eligibility at renewal, and a redetermination of eligibility based on a change in circumstances.

(b) *State plan requirements.* Consistent with guidance issued by the Secretary, the agency must establish in its State plan timeliness and performance standards, promptly and without undue delay, for:

(1) Determining eligibility for Medicaid for individuals who submit applications to the single State agency or its designee in accordance with § 435.907, including determining eligibility or potential eligibility for, and transferring individuals' electronic accounts to, other insurance affordability programs pursuant to § 435.1200(e);

(2) Determining eligibility for Medicaid for individuals whose accounts are transferred from other insurance affordability programs, including at initial application, as well as at a regularly scheduled renewal or due to a change in circumstances;

(3) Redetermining eligibility for current beneficiaries at regularly scheduled renewals in accordance with § 435.916, including determining eligibility or potential eligibility for, and transferring individuals' electronic accounts to, other insurance affordability programs pursuant to § 435.1200(e);

(4) Redetermining eligibility for current beneficiaries based on a change in circumstances in accordance with § 435.919(b)(1) through (5), including determining eligibility or potential eligibility for, and transferring individuals' electronic accounts to, other insurance affordability programs pursuant to § 435.1200(e); and

(5) Redetermining eligibility for current beneficiaries based on anticipated changes in circumstances in accordance with § 435.919(b)(6), including determining eligibility or potential eligibility for, and transferring individuals' electronic accounts to, other insurance affordability programs pursuant to § 435.1200(e).

(c) *Timeliness and performance standard requirements*—(1) *Period covered.* The timeliness and performance standards adopted by the agency under paragraph (b) of this section must—

(i) For determinations of eligibility at initial application or upon receipt of an account transfer from another insurance affordability program, as described in paragraphs (b)(1) and (2) of this section, cover the period from the date of application or transfer from another insurance affordability program to the date the agency notifies the applicant of its decision or the date the agency transfers the individual's electronic account to another insurance affordability program in accordance with § 435.1200(e);

(ii) For regularly-scheduled renewals of eligibility under § 435.916, cover the period from the date that the agency initiates the steps required to renew eligibility on the basis of information available to the agency, as required under § 435.916(b)(1), to the date the agency sends the individual notice required under § 435.916(b)(1)(i) or (b)(2)(i)(C) of its decision to approve their renewal of eligibility or, as applicable, to the date the agency terminates eligibility and transfers the individual's electronic account to

another insurance affordability program in accordance with § 435.1200(e);

(iii) For redeterminations of eligibility due to changes in circumstances under § 435.919(b)(1) through (5), cover the period from the date the agency receives information about the reported change, to the date the agency notifies the individual of its decision or, as applicable, to the date the agency terminates eligibility and transfers the individual's electronic account to another insurance affordability program in accordance with § 435.1200(e); and

(iv) For redeterminations of eligibility based on anticipated changes in circumstances under § 435.919(b)(6), cover the period from the date the agency begins the redetermination of eligibility, to the date the agency notifies the individual of its decision or, as applicable, to the date the agency terminates eligibility and transfers the individual's electronic account to another insurance affordability program in accordance with § 435.1200(e).

(2) *Criteria for establishing standards.* To promote accountability and a consistent, high quality consumer experience among States and between insurance affordability programs, the timeliness and performance standards included in the State plan must address—

(i) The capabilities and cost of generally available systems and technologies;

(ii) The general availability of electronic data matching, ease of connections to electronic sources of authoritative information to determine and verify eligibility, and the time needed by the agency to evaluate information obtained from electronic data sources;

(iii) The demonstrated performance and timeliness experience of State Medicaid, CHIP, and other insurance affordability programs, as reflected in data reported to the Secretary or otherwise available;

(iv) The needs of applicants and beneficiaries, including preferences for mode of application and submission of information at renewal or redetermination (such as through an internet website, telephone, mail, in-person, or other commonly available electronic means), the time needed to return a renewal form or any additional information needed to complete a determination of eligibility at application or renewal, as well as the relative complexity of adjudicating the eligibility determination based on household, income or other relevant information; and

(v) The advance notice that must be provided to beneficiaries in accordance with §§ 431.211, 431.213, and 431.214 of this chapter when the agency makes a determination resulting in termination or other action as defined in § 431.201 of this chapter.

(3) *Standard for new applications and transferred accounts.* Except as provided in paragraph (e) of this section, the determination of eligibility for any applicant or individual whose account was transferred from another insurance affordability program may not exceed—

(i) 90 calendar days for applicants who apply for Medicaid on the basis of disability; and

(ii) 45 calendar days for all other applicants.

(4) *Standard for renewals.* The redetermination of eligibility at a beneficiary's regularly scheduled renewal may not exceed the end of the beneficiary's eligibility period, except as provided in paragraphs (e) and (c)(4)(i) and (ii) of this section.

(i) In the case of a beneficiary who returns a renewal form less than 30 calendar days prior to the end of the beneficiary's eligibility period, the redetermination of eligibility may not exceed the end of the month following the end of the beneficiary's eligibility period.

(ii) In the case of a beneficiary who is determined ineligible on the basis for which they are currently receiving Medicaid (the applicable modified adjusted gross income standard described in § 435.911(b)(1) and (2) or another basis) and for whom the agency is considering eligibility on another basis, the eligibility determination on the new basis may not exceed—

(A) 90 calendar days for beneficiaries whose eligibility is being determined on the basis of disability; and

(B) 45 calendar days for all other beneficiaries.

(5) *Standard for redeterminations based on changes in circumstances.* Except as provided in paragraph (e) of this section, the redetermination of eligibility for a beneficiary based on a change in circumstances reported by the beneficiary or received from a third party may not exceed the end of the month that occurs—

(i) 30 calendar days following the agency's receipt of information related to the change in circumstances, unless the agency needs to request additional information from the beneficiary;

(ii) 60 calendar days following the agency's receipt of information related to the change in circumstances if the agency must request additional information from the beneficiary; or

(iii) In the case of a beneficiary who is determined ineligible on the basis for which they are currently receiving Medicaid (the applicable modified adjusted gross income standard described in § 435.911(b)(1) and (2) or another basis) and for whom the agency is considering eligibility on another basis—

(A) 90 calendar days following the determination of ineligibility on the current basis, for beneficiaries whose eligibility is being determined on the basis of disability; and

(B) 45 calendar days following the determination of ineligibility on the current basis for all other beneficiaries.

(6) *Standard for redeterminations based on anticipated changes.* The redetermination of eligibility for a beneficiary based on an anticipated change in circumstances may not exceed the end of the month in which the anticipated change occurs, except as provided in paragraphs (e) and (c)(6)(i) and (ii) of this section.

(i) In the case of a beneficiary who returns information or documentation requested pursuant to § 435.919(b)(6) less than 30 calendar days prior to the end of the month in which the anticipated change occurs, the redetermination of eligibility may not exceed the end of the month following the month in which the anticipated change occurs.

(ii) In the case of a beneficiary who is determined ineligible on the basis for which they are currently receiving Medicaid (the applicable modified adjusted gross income standard described in § 435.911(b)(1) and (2) or another basis) and for whom the agency is considering eligibility on another basis, the eligibility determination on the new basis may not exceed—

(A) 90 calendar days for beneficiaries whose eligibility is being determined on the basis of disability; and

(B) 45 calendar days for all other beneficiaries.

(d) *Availability of information.* The agency must inform individuals of the timeliness standards adopted in accordance with this section.

(e) *Exceptions.* The agency must determine or redetermine eligibility within the standards except in unusual circumstances, for example—

(1) When the agency cannot reach a decision because the applicant or beneficiary, or an examining physician, delays or fails to take a required action; or

(2) When there is an administrative or other emergency beyond the agency's control.

(f) *Case documentation.* The agency must document the reason(s) for delay in the applicant's or beneficiary's case record.

(g) *Prohibitions.* The agency must not use the timeliness standards—

(1) As a waiting period before determining eligibility;

(2) As a reason for denying or terminating eligibility or benefits as required under § 435.930(b) (because it has not determined or redetermined eligibility within the timeliness standards); or

(3) As a reason for delaying termination of a beneficiary's coverage or taking other adverse action.

§ 435.914 [Amended]

■ 16. Section 435.914 is amended by–

■ a. In paragraph (a), removing the phrase ''case record facts to support the agency's decision on his application'' and adding in its place the phrase ''and beneficiary's case record the information and documentation described in § 431.17(b)(1) of this chapter''; and

■ b. In paragraph (b) introductory text, removing the phrase ''by a finding of eligibility or ineligibility'' and adding in its place the phrase ''and renewal or redetermination by a finding of eligibility or ineligibility''.

■ 17. Section 435.916 is revised to read as follows:

§ 435.916 Regularly scheduled renewals of Medicaid eligibility.

(a) *Frequency of renewals.* Except as provided in § 435.919:

(1) The eligibility of all Medicaid beneficiaries not described in paragraph (a)(2) of this section must be renewed once every 12 months, and no more frequently than once every 12 months.

(2) The eligibility of qualified Medicare beneficiaries described in section 1905(p)(1) of the Act must be renewed at least once every 12 months, and no more frequently than once every 6 months.

(b) *Renewals of eligibility*—(1) *Renewal on basis of information available to agency.* The agency must make a redetermination of eligibility for all Medicaid beneficiaries without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information through any data bases accessed by the agency under §§ 435.948, 435.949, and 435.956. If the agency is able to renew eligibility based on such information, the agency must, consistent with the requirements of this subpart and subpart E of part 431 of this chapter, notify the individual—

(i) Of the eligibility determination, and basis; and

(ii) That the individual must inform the agency, through any of the modes permitted for submission of applications under § 435.907(a), if any of the information contained in such notice is inaccurate, but that the individual is not required to sign and return such notice if all information provided on such notice is accurate.

(2) *Renewals requiring information from the individual.* If the agency cannot renew eligibility for beneficiaries in accordance with paragraph (b)(1) of this section, the agency—

(i) Must provide the individual with—

(A) A pre-populated renewal form containing information, as specified by the Secretary, available to the agency that is needed to renew eligibility.

(B) At least 30 calendar days from the date the agency sends the renewal form to respond and provide any necessary information through any of the modes of submission specified in § 435.907(a), and to sign the renewal form under penalty of perjury in a manner consistent with § 435.907(f).

(C) Notice of the agency's decision concerning the renewal of eligibility in accordance with this subpart and subpart E of part 431 of this chapter.

(ii) Must verify any information provided by the beneficiary in accordance with §§ 435.945 through 435.956.

(iii) If the individual subsequently submits the renewal form or other needed information within 90 calendar days after the date of termination, or a longer period elected by the State, must treat the renewal form as an application and reconsider the eligibility of an individual whose coverage is terminated for failure to submit the renewal form or necessary information in accordance with the application time standards at § 435.912(c)(3) without requiring a new application.

(iv) Not require an individual to complete an in-person interview as part of the renewal process.

(v) May request from beneficiaries only the information needed to renew eligibility. Requests for non-applicant information must be conducted in accordance with § 435.907(e).

(3) *Special rules related to beneficiaries whose Medicaid eligibility is determined on a basis other than modified adjusted gross income.* (i) The agency may consider blindness as continuing until the reviewing physician under § 435.531 determines that a beneficiary's vision has improved beyond the definition of blindness contained in the plan; and

(ii) The agency may consider disability as continuing until the review team, under § 435.541, determines that a beneficiary's disability no longer meets the definition of disability contained in the plan.

(c) *Timeliness of renewals.* The agency must complete the renewal of eligibility in accordance with this section by the end of the beneficiary's eligibility period described in paragraph (a) of this section and in accordance with the time standards in § 435.912(c)(4).

(d) *Determination of ineligibility and transmission of data pertaining to individuals no longer eligible for Medicaid.* (1) Prior to making a determination of ineligibility, the agency must consider all bases of eligibility, consistent with § 435.911.

(2) Prior to terminating coverage for individuals determined ineligible for Medicaid, the agency must determine eligibility or potential eligibility for other insurance affordability programs and comply with the procedures set forth in § 435.1200(e).

(e) *Accessibility of renewal forms and notices.* Any renewal form or notice must be accessible to persons who are limited English proficient and persons with disabilities, consistent with § 435.905(b).

■ 18. Section 435.919 is added to read as follows:

§ 435.919 Changes in circumstances.

(a) *Procedures for reporting changes.* The agency must:

(1) Have procedures designed to ensure that beneficiaries understand the importance of making timely and accurate reports of changes in circumstances that may affect their eligibility; and

(2) Accept reports made under paragraph (a)(1) of this section and any other beneficiary reported information through any of the modes permitted for submission of applications under § 435.907(a).

(b) *Agency action on information about changes.* Consistent with the requirements of § 435.952, the agency must promptly redetermine eligibility between regularly scheduled renewals of eligibility required under § 435.916(a) whenever it has reliable information about a change in a beneficiary's circumstances that may impact the beneficiary's eligibility for Medicaid, the amount of medical assistance for which the beneficiary is eligible, or the beneficiary's premiums or cost sharing charges. Such redetermination must be completed in accordance with this paragraph (b) and paragraph (e) of this section.

(1) The agency must redetermine eligibility based on available information, if possible. When needed

information is not available, the agency must request such information from the beneficiary in accordance with § 435.952(b) and (c).

(2) Prior to furnishing additional medical assistance or lowering applicable premiums or cost sharing charges based on a reported change:

(i) If the change was reported by the beneficiary, the agency must verify the information in accordance with §§ 435.940 through 435.960 and the agency's verification plan developed under § 435.945(j).

(ii) If the change was provided by a third-party data source, the agency may verify the information with the beneficiary.

(3) If the agency is unable to verify a reported change that would result in additional medical assistance or lower premiums or cost sharing, the agency may not terminate the beneficiary's coverage for failure to respond to the request to verify such change.

(4) Prior to taking an adverse action, as defined in § 431.201 of this chapter, based on information received from a third-party, the agency must request information from the beneficiary to verify or dispute the information received, consistent with § 435.952(d).

(5) If the agency determines that a reported change results in an adverse action, the agency must—

(i) Comply with the requirements at § 435.916(d)(1) (relating to consideration of eligibility on other bases) and (2) (relating to determining potential eligibility for other insurance affordability programs) prior to terminating a beneficiary's eligibility in accordance with this section.

(ii) Provide advance notice of adverse action and fair hearing rights, in accordance with the requirements of part 431, subpart E, of this chapter, prior to taking any adverse action resulting from a change in a beneficiary's circumstances.

(6) If the agency has information about anticipated changes in a beneficiary's circumstances that may affect his or her eligibility, the redetermination of eligibility must be initiated at an appropriate time based on such changes consistent with paragraphs (b)(1) through (5) of this section and the timeliness standards at § 435.912(c)(6).

(c) *Beneficiary response times*—(1) *In general.* The agency must—

(i) Provide beneficiaries with at least 30 calendar days from the date the agency sends the notice requesting the beneficiary to provide the agency with any additional information needed for the agency to redetermine eligibility.

(ii) Allow beneficiaries to provide any requested information through any of the modes of submission specified in § 435.907(a).

(2) *Time standards for redetermining eligibility.* The agency must redetermine eligibility within the time standards described in § 435.912(c)(5) and (6), except in unusual circumstances, such as those described in § 435.912(e); States must document the reason for delay in the individual's case record.

(d) *90-day reconsideration period.* If an individual terminated for not returning requested information in accordance with this section subsequently submits the information within 90 calendar days after the date of termination, or a longer period elected by the State, the agency must—

(1) Reconsider the individual's eligibility without requiring a new application in accordance with the application timeliness standards established under § 435.912(c)(3).

(2) Request additional information needed to determine eligibility consistent with § 435.907(e) and obtain a signature under penalty of perjury consistent with § 435.907(f) if such information or signature is not available to the agency or included in the information described in this paragraph (d).

(e) *Scope of redeterminations following a change in circumstance.* For redeterminations of eligibility for Medicaid beneficiaries completed in accordance with this section—

(1) The agency must limit any requests for additional information under this section to information relating to a change in circumstance that may impact the beneficiary's eligibility.

(2) If the agency has enough information available to it to renew eligibility with respect to all eligibility criteria, the agency may begin a new eligibility period, as defined in § 435.916(a).

(f) *Agency action on updated address information*—(1) *Updated address information received from a third party.* (i) The agency must have a process in place to regularly obtain updated address information from reliable data sources and to act on such updated address information in accordance with paragraphs (f)(2) and (3) of this section.

(ii) The agency may establish a process to obtain updated address information from other third-party data sources and to act on such updated address information in accordance with paragraphs (f)(2) and (3) of this section.

(iii) For purposes of paragraph (f)(1)(i) of this section, reliable data sources include:

(A) Mail returned to the agency by the United States Postal Service (USPS) with a forwarding address;

(B) The USPS National Change of Address (NCOA) database;

(C) The agency's contracted managed care organizations (MCOs), prepaid inpatient health plans (PIHPs), prepaid ambulatory health plans (PAHPs), primary care case managers (PCCMs), and PCCM entities as defined in § 438.2 of this chapter, provided the MCO, PIHP, PAHP, PCCM, or PCCM entity received the information directly from or verified it with the beneficiary; and

(D) Other data sources identified by the agency and approved by the Secretary.

(2) *In-State address changes.* The following actions are required when the agency receives updated in-State address information for a beneficiary.

(i) If the information is provided by a reliable data source described in paragraph (f)(1)(iii) of this section, the agency must—

(A) Accept the information as reliable;

(B) Update the beneficiary's case record; and

(C) Notify the beneficiary of the update.

(ii) If the information is provided by a data source not described in paragraph (f)(1)(iii) of this section, the agency must check the agency's Medicaid Enterprise System (MES) and the most recent address information received from reliable data sources described in paragraph (f)(1)(iii) of this section to confirm the accuracy of the information.

(A) If the updated address information is confirmed, the agency must accept the information as reliable in accordance with paragraph (f)(2)(i) of this section.

(B) If the updated address information is not confirmed by the MES or a reliable data source, the agency must make a good-faith effort, as described in paragraph (f)(5) of this section, to contact the beneficiary to confirm the information.

(C) If the agency is unable to confirm the updated address information, the agency may not update the beneficiary's address in the case record or terminate the beneficiary's coverage for failure to respond to a request to confirm their address or State residency.

(3) *Out-of-State address changes.* The following actions are required when the agency receives updated out-of-State address information for a beneficiary through the processes described in paragraph (f)(1) of this section.

(i) The agency must make a good-faith effort, as described in paragraph (f)(5) of this section, to contact the beneficiary to confirm the information or obtain

information on whether the beneficiary continues to meet the agency's State residency requirement.

(ii) If the agency is unable to confirm that the beneficiary continues to meet State residency requirements, the agency must provide advance notice of termination and fair hearing rights consistent with part 431, subpart E, of this chapter.

(4) *Whereabouts unknown.* The following actions are required when beneficiary mail is returned to the agency with no forwarding address.

(i) The agency must check the agency's MES and the most recently available information from reliable data sources described in paragraph (f)(1)(iii) of this section for additional contact information. If updated in-State address information is available from such a reliable data source, then accept the information as reliable in accordance with paragraph (f)(2)(i) of this section.

(ii) If updated address information cannot be obtained and confirmed as reliable in accordance with paragraph (f)(4)(i) of this section, the agency must make a good-faith effort, as described in paragraph (f)(5) of this section, to contact the beneficiary to obtain updated address information.

(iii) If the agency is unable to identify and confirm the beneficiary's address pursuant to paragraph (f)(4)(i) or (ii) of this section and the beneficiary's whereabouts remain unknown, the agency must take appropriate steps to move the beneficiary to a fee-for-service delivery system, or to terminate or suspend the beneficiary's coverage.

(A) If the agency elects to terminate or suspend coverage in accordance with this paragraph (f)(4)(iii), the agency must send notice to the beneficiary's last known address or via electronic notification, in accordance with the beneficiary's election under § 435.918, no later than the date of termination or suspension and provide notice of fair hearing rights in accordance with part 431, subpart E, of this chapter.

(B) If whereabouts of a beneficiary whose coverage was terminated or suspended in accordance with this paragraph (f)(4)(iii) become known within the beneficiary's eligibility period, as defined in § 435.916(b), the agency—

(*1*) Must reinstate coverage back to the date of termination without requiring the individual to provide additional information to verify their eligibility, unless the agency has other information available to it that indicates the beneficiary may not meet all eligibility requirements.

(*2*) May begin a new eligibility period consistent paragraph (e)(2) of this section, if the agency has sufficient information available to it to renew eligibility with respect to all eligibility criteria without requiring additional information from the beneficiary.

(5) *A good-faith effort to contact a beneficiary.* (i) For purposes of this paragraph (f), a good-faith effort includes:

(A) At least two attempts to contact the beneficiary;

(B) Use of two or more modalities (such as, mail, phone, email);

(C) A reasonable period of time between contact attempts; and

(D) At least 30 calendar days for the beneficiary to respond to confirm updated address information, consistent with paragraph (c)(1) of this section.

(ii) If the agency does not have the information necessary to make at least two attempts to contact a beneficiary through two or more modalities in accordance with paragraph (f)(5)(i) of this section, the agency must make a note of that fact in the beneficiary's case record.

■ 19. Section 435.940 is revised to read as follows:

§ 435.940 Basis and scope.

The income and eligibility verification requirements set forth in this section and §§ 435.945 through 435.960 are based on sections 1137, 1902(a)(4), 1902(a)(19), 1902(a)(46)(B), 1902(ee), 1903(r)(3), 1903(x), 1940, and 1943(b)(3) of the Act, and section 1413 of the Affordable Care Act. Nothing in the regulations in this subpart should be construed as limiting the State's program integrity measures or affecting the State's obligation to ensure that only eligible individuals receive benefits, consistent with parts 431 and 455 of this chapter, or its obligation to provide for methods of administration that are in the best interest of applicants and beneficiaries and are necessary for the proper and efficient operation of the plan, consistent with § 431.15 of this chapter and section 1902(a)(19) of the Act.

■ 20. Section 435.952 is amended by revising paragraphs (b), (c) introductory text, and (c)(1) to read as follows:

§ 435.952 Use of information and requests for additional information from individuals.

* * * * *

(b) If information provided by or on behalf of an individual (on the application or renewal form or otherwise) is reasonably compatible with information obtained by the agency, including information obtained in accordance with § 435.948, § 435.949, § or 435.956, the agency must determine or renew eligibility based on such information.

(c) An individual must not be required to provide additional information or documentation unless information needed by the agency in accordance with § 435.948, § 435.949, § or 435.956 cannot be obtained electronically or information obtained electronically is not reasonably compatible, as provided in the verification plan described in § 435.945(j) with information provided by or on behalf of the individual.

(1) Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual, and resource information obtained through an electronic data match shall be considered reasonably compatible with resource information provided by or on behalf of an individual, if both the information obtained electronically and the information provided by or on behalf of the individual are either above or at or below the applicable standard or other relevant threshold.

* * * * *

■ 21. Section 435.956 is amended by revising paragraph (b)(4) to read as follows:

§ 435.956 Verification of other non-financial information.

* * * * *

(b) * * *

(4) The agency may not limit the number of reasonable opportunity periods an individual may receive.

* * * * *

■ 22. Section 435.1200 is amended by—

■ a. Revising the heading for paragraph (b) and paragraph (b)(1);

■ b. Revising and republishing paragraph (b)(3);

■ c. Adding paragraph (b)(4);

■ d. Revising paragraphs (c) and (e)(1);

■ e. Adding paragraph (e)(4);

■ f. Revising paragraph (h)(1) and the introductory text of the first paragraph (h)(3)(i); and

■ g. Redesignating the second paragraph (h)(3)(i) as paragraph (h)(3)(ii).

The revisions and additions read as follows:

§ 435.1200 Medicaid agency responsibilities for a coordinated eligibility and enrollment process with other insurance affordability programs.

* * * * *

(b) *General requirements.* * * *

(1) Fulfill the responsibilities set forth in paragraphs (c) through (h) of this section.

* * * * *

(3) Enter into and, upon request, provide to the Secretary one or more agreements with the Exchange, Exchange appeals entity and the agencies administering other insurance affordability programs as are necessary to fulfill the requirements of this section, including a clear delineation of the responsibilities of each program to—

(i) Minimize burden on individuals seeking to obtain or renew eligibility or to appeal a determination of eligibility for enrollment in a QHP or for one or more insurance affordability programs;

(ii) Ensure compliance with paragraphs (c) through (h) of this section;

(iii) Ensure prompt determinations of eligibility and enrollment in the appropriate program without undue delay, consistent with timeliness standards established under § 435.912, based on the date the application is submitted to any insurance affordability program;

(iv) Provide for a combined eligibility notice and opportunity to submit a joint fair hearing request, consistent with paragraphs (g) and (h) of this section;

(v) If the agency has delegated authority to conduct fair hearings to the Exchange or Exchange appeals entity under § 431.10(c)(1)(ii) of this chapter, provide for a combined appeals decision by the Exchange or Exchange appeals entity for individuals who requested an appeal of an Exchange-related determination in accordance with 45 CFR part 155, subpart F, and a fair hearing of a denial of Medicaid eligibility which is conducted by the Exchange or Exchange appeals entity; and

(vi) Seamlessly transition the eligibility of beneficiaries between Medicaid and the Children's Health Insurance Program (CHIP) when an agency administering one of these programs determines that a beneficiary is eligible for the other program.

(4) Accept a determination of eligibility for Medicaid made using MAGI-based methodologies by the State agency administering a separate CHIP in the State. In order to comply with the requirement of this paragraph (b)(4), the agency may:

(i) Apply the same MAGI-based methodologies in accordance with§ 435.603, and verification policies and procedures in accordance with §§ 435.940 through 435.956 as those used by the separate CHIP in accordance with §§ 457.315 and 457.380 of this chapter, such that the agency will accept any finding relating to a criterion of eligibility made by a separate CHIP without further verification, in accordance with this paragraph (d)(4);

(ii) Utilize a shared eligibility service through which determinations of Medicaid eligibility are governed exclusively by the Medicaid agency and any functions performed by the separate CHIP are solely administrative in nature;

(iii) Enter into an agreement in accordance with § 431.10(d) of this chapter under which the Medicaid agency delegates authority to the separate CHIP in accordance with § 431.10(c) of this chapter to make final determinations of Medicaid eligibility; or

(iv) Adopt other procedures approved by the Secretary.

(c) *Provision of Medicaid for individuals found eligible for Medicaid by another insurance affordability program.* (1) For each individual determined Medicaid eligible in accordance with paragraph (c)(2) of this section, the agency must—

(i) Establish procedures to receive, via secure electronic interface, the electronic account containing the determination of Medicaid eligibility;

(ii) Comply with the provisions of § 435.911 to the same extent as if an application had been submitted to the Medicaid agency; and

(iii) Comply with the provisions of § 431.10 of this chapter to ensure it maintains oversight for the Medicaid program.

(2) For purposes of paragraph (c)(1) of this section, individuals determined eligible for Medicaid in this paragraph (c) include:

(i) Individuals determined eligible for Medicaid by another insurance affordability program, including the Exchange, pursuant to an agreement between the agency and the other insurance affordability program in accordance with § 431.10(d) of this chapter (including as a result of a decision made by the program or the program's appeals entity in accordance with paragraph (g)(6) or (g)(7)(i)(A) of this section); and

(ii) Individuals determined eligible for Medicaid by a separate CHIP (including as the result of a decision made by a CHIP review entity) in accordance with paragraph (b)(4) of this section.

* * * * *

(e) * * *

(1) *Individuals determined not eligible for Medicaid.* For each individual who submits an application to the agency which includes sufficient information to determine Medicaid eligibility or whose eligibility is being renewed in accordance with § 435.916 (regarding regularly-scheduled renewals of eligibility) or § 435.919 (regarding changes in circumstances) and whom the agency determines is ineligible for Medicaid, and for each individual determined ineligible for Medicaid in accordance with a fair hearing under subpart E of part 431 of this chapter, the agency must promptly and without undue delay, consistent with timeliness standards established under § 435.912:

(i) Determine eligibility for a separate CHIP if operated in the State, and if eligible, transfer the individual's electronic account, via secure electronic interface, to the separate CHIP agency and ensure that the individual receives a combined eligibility notice as defined at § 435.4; and

(ii) If not eligible for CHIP, determine potential eligibility for BHP (if offered by the State) and coverage available through the Exchange, and if potentially eligible, transfer the individual's electronic account, via secure electronic interface, to the program for which the individual is potentially eligible.

* * * * *

(4) *Ineligible individuals.* For purposes of paragraph (e)(1) of this section, an individual is considered ineligible for Medicaid if they are not eligible for any eligibility group covered by the agency that provides minimum essential coverage as defined at § 435.4. An individual who is eligible only for a limited benefit group, such as the eligibility group for individuals with tuberculosis described at § 435.215, would be considered ineligible for Medicaid for purposes of paragraph (e)(1) of this section.

* * * * *

(h) * * *

(1) Include in the agreement into which the agency has entered under paragraph (b)(3) of this section that a combined eligibility notice, as defined in § 435.4, will be provided:

(i) To an individual, by either the agency or a separate CHIP, when a determination of Medicaid eligibility is completed for such individual by the State agency administering a separate CHIP in accordance with paragraph (b)(4) of this section, or a determination of CHIP eligibility is completed by the Medicaid agency in accordance with paragraph (e)(1)(i) of this section; and

(ii) To the maximum extent feasible to an individual who is not described in paragraph (h)(1)(i) of this section but who is transferred between the agency and another insurance affordability program by the agency, Exchange, or other insurance affordability program, as well as to multiple members of the same household included on the same application or renewal form.

* * * * *

(3) * * *

(i) Provide the individual with notice, consistent with § 435.917, of the final determination of eligibility on all bases, including coordinated content regarding, as applicable—

* * * * *

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

■ 23. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

§ 436.608 [Removed and Reserved]

■ 24. Section 436.608 is removed and reserved.

■ 25. Section 436.831 is amended by—

■ a. Redesignating paragraphs (g)(2) and (3) as paragraphs (g)(3) and (4), respectively; and

■ b. Adding new paragraph (g)(2).

The addition reads as follows:

§ 436.831 Income eligibility.

* * * * *

(g) * * *

(2) May include expenses for services that the agency has determined are reasonably constant and predictable, including but not limited to, services identified in a person-centered service plan developed pursuant to § 441.301(b)(1)(i), § 441.468(a)(1), § 441.540(b)(5), or § 441.725 of this chapter and expenses for prescription drugs, projected to the end of the budget period at the Medicaid reimbursement rate;

* * * * *

PART 447—PAYMENTS FOR SERVICES

■ 26.The authority citation for part 447 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1396r–8.

■ 27. Section 447.56 is amended by revising paragraph (a)(1)(v) to read as follows:

§ 447.56 Limitations on premiums and cost sharing.

(a) * * *

(1) * * *

(v) At State option, individuals under age 19, 20 or age 21, eligible under § 435.222 or § 435.223 of this chapter.

* * * * *

PART 457—ALLOTMENTS AND GRANTS TO STATES

■ 28. The authority citation for part 457 continues to read as follows:

Authority: 42 U.S.C. 1302.

■ 29. Section 457.65 is amended by revising paragraph (d) to read as follows:

§ 457.65 Effective date and duration of State plans and plan amendments.

* * * * *

(d) *Amendments relating to enrollment procedures.* A State plan amendment that institutes or extends the use of waiting lists, enrollment caps or closed enrollment periods is considered an amendment that restricts eligibility and must meet the requirements in paragraph (b) of this section.

* * * * *

■ 30. Section 457.340 is amended by—

■ a. Revising the heading for paragraph (d) and paragraph (d)(1);

■ b. Removing paragraph (d)(3); and

■ d. Revising paragraph (f)(1).

The revisions read as follows:

§ 457.340 Application for and enrollment in CHIP.

* * * * *

(d) *Timely determination and redetermination of eligibility.* (1) The terms in § 435.912 of this chapter apply equally to CHIP, except that—

(i) The terms of § 435.912(c)(4)(ii), (c)(5)(iii), and (c)(6)(ii) of this chapter (relating to timelines for completing renewals and redeterminations when States must consider other bases of eligibility) do not apply; and

(ii) The standards for transferring electronic accounts to other insurance affordability programs are pursuant to § 457.350 and the standards for receiving applications from other insurance affordability programs are pursuant to § 457.348.

* * * * *

(f) * * *

(1) Include in the agreement into which the State has entered under § 457.348(a) that, a combined eligibility notice, as defined in § 457.10, will be provided:

(i) To an individual, by the State agency administering a separate CHIP or the Medicaid agency, when a determination of CHIP eligibility is completed for such individual by the State agency administering Medicaid in accordance with § 457.348(e), or a determination of Medicaid eligibility is completed by the State in accordance with § 457.350(b)(1);

(ii) To the maximum extent feasible, to an individual who is not described in paragraph (f)(1)(i) of this section but who is transferred between the State and another insurance affordability program in accordance with § 457.348 or § 457.350; and

(iii) To the maximum extent feasible, to multiple members of the same household included on the same application or renewal form.

* * * * *

■ 31. Section 457.344 is added to read as follows:

§ 457.344 Changes in circumstances.

(a) *Procedures for reporting changes.* The State must:

(1) Have procedures designed to ensure that enrollees understand the importance of making timely and accurate reports of changes in circumstances that may affect their eligibility; and

(2) Accept reports made under paragraph (a)(1) of this section and any other enrollee reported information through any of the modes permitted for submission of applications under § 435.907(a) of this chapter, as cross-referenced at § 457.330.

(b) *State action on information about changes.* Consistent with the requirements of § 457.380(f), the State must promptly redetermine eligibility between regularly scheduled renewals of eligibility required under § 457.343, whenever it has reliable information about a change in an enrollee's circumstances that may impact the enrollee's eligibility for CHIP, the amount of child or pregnancy-related health assistance for which the enrollee is eligible, or the enrollee's premiums or cost sharing charges. Such redetermination must be completed in accordance with paragraph (e) of this section.

(1) The State must redetermine eligibility based on available information, if possible. When needed information is not available, the State must request such information from the enrollee in accordance with § 435.952(b) and (c) of this chapter as referenced in § 457.380(f).

(2) Prior to furnishing additional child or pregnancy-related assistance or lowering applicable premiums or cost sharing charges based on a reported change:

(i) If the change was reported by the enrollee, the State must verify the information in accordance with §§ 435.940 through 435.960 of this chapter and the State's verification plan as referenced in § 457.380.

(ii) If the change was provided by a third-party data source, the State may verify the information with the enrollee.

(3) If the State is unable to verify a reported change that would result in additional child or pregnancy-related health assistance or lower premiums or cost sharing, the State may not

terminate the enrollee's coverage for failure to respond to the request to verify such change.

(4) Prior to taking an action subject to review, as defined in § 457.1130, based on information received from a third-party data source, the State must request information from the enrollee to verify or dispute the information received consistent with § 435.952(d) of this chapter as referenced in § 457.380(f).

(5) If the State determines that a reported change results in an action subject to review, the State must:

(i) Comply with the requirements at § 435.916(d)(2) of this chapter as referenced in § 457.343 (relating to determining potential eligibility for other insurance affordability programs), prior to terminating an enrollee's eligibility in accordance with this section.

(ii) Provide notice and State review rights, in accordance with the requirements of § 457.340(e), and subpart K of this part, prior to taking any action subject to review resulting from a change in an enrollee's circumstances.

(6) If the State has information about anticipated changes in an enrollee's circumstances that may affect his or her eligibility, it must initiate a determination of eligibility at the appropriate time based on such changes consistent with paragraphs (b)(1) through (5) of this section and the requirements at § 435.912(c)(6) of this chapter as referenced in § 457.340(d)(1).

(c) *Enrollee response times*—(1) *State requirements.* The State must—

(i) Provide enrollees with at least 30 calendar days from the date the State sends the notice requesting the enrollee to provide the State with any additional information needed for the State to redetermine eligibility.

(ii) Allow enrollees to provide any requested information through any of the modes of submission specified in § 435.907(a) of this chapter, as referenced in § 457.330.

(2) *Time standards for redetermining eligibility.* The State must redetermine eligibility within the time standards described in § 435.912(c)(5) and (6) of this chapter, except in unusual circumstances, such as those as described in § 435.912(e) of this chapter, as referenced in § 457.340(d)(1); States must document the reason for delay in the individual's case record.

(d) *Ninety-day reconsideration period.* If an individual terminated for not returning requested information in accordance with this section subsequently submits the information within 90 calendar days after the date of termination, or a longer period elected by the State, the State must—

(1) Reconsider the individual's eligibility without requiring a new application in accordance with the timeliness standards described at § 435.912(c)(3) of this chapter as referenced in § 457.340(d)(1).

(2) Request additional information needed to determine eligibility and obtain a signature under penalty of perjury consistent with § 435.907(e) and (f) of this chapter respectively as referenced in § 457.330 if such information or signature is not available to the State or included in the information described in this paragraph (d).

(e) *Scope of redeterminations following a change in circumstances.* For redeterminations of eligibility for CHIP enrollees completed in accordance with this section—

(1) The State must limit any requests for additional information under this section to information relating to change in circumstances which may impact the enrollee's eligibility.

(2) If the State has enough information available to it to renew eligibility with respect to all eligibility criteria, the State may begin a new eligibility period under § 457.343.

(f) *State action on updated address information*—(1) *Updated address information received from a third party.* (i) The State must have a process in place to regularly obtain updated address information from reliable data sources and to act on such updated address information in accordance with paragraphs (f)(2) and (3) of this section.

(ii) The State may establish a process to obtain updated address information from other third-party data sources and to act on such updated address information in accordance with paragraphs (f)(2) and (3) of this section.

(iii) For purposes of paragraph (f)(1)(i) of this section, reliable data sources include:

(A) Mail returned to the State by the United States Postal Service (USPS) with a forwarding address;

(B) The USPS National Change of Address (NCOA) database;

(C) The State's contracted MCOs, PIHPs, PAHPs, PCCMs, and PCCM entities as defined in § 457.10, provided the MCO, PIHP, PAHP, PCCM, or PCCM entity received the information directly from or verified it with the enrollee; and

(D) Other data sources identified by the State and approved by the Secretary.

(2) *In-State address changes.* The following actions are required when the State receives updated in-State address information for an enrollee.

(i) If the information is provided by a reliable data source described in paragraph (f)(1)(iii) of this section, the State must—

(A) Accept the information as reliable;

(B) Update the enrollee's case record; and

(C) Notify the enrollee of the update.

(ii) If the information is provided by a data source not described in paragraph (f)(1)(iii) of this section, the State must check the State's Medicaid Enterprise System (MES) and the most recent address information received from reliable data sources described in paragraph (f)(1)(iii) of this section to confirm the accuracy of the information.

(A) If the updated address information is confirmed, the State must accept the information as reliable in accordance with paragraph (f)(2)(i) of this section.

(B) If the updated address information is not confirmed by the MES or a reliable data source, the State must make a good-faith effort, as described in paragraph (f)(5) of this section, to contact the enrollee to confirm the information.

(C) If the State is unable to confirm the updated address information, the State may not update the enrollee's address in the case record or terminate the enrollee's coverage for failure to respond to a request to confirm their address or State residency.

(3) *Out-of-State address changes.* The following actions are required when the State receives updated out-of-State address information for an enrollee through the processes described in paragraph (f)(1) of this section.

(i) The State must make a good-faith effort, as described in paragraph (f)(5) of this section, to contact the enrollee to confirm the information or obtain information on whether the enrollee continues to meet the State's residency requirement.

(ii) If the State is unable to confirm that the enrollee continues to meet State residency requirements, the State must provide advance notice of termination and individual's rights to a CHIP review consistent with § 457.340(e)(1).

(4) *Whereabouts unknown.* The following actions are required when enrollee mail is returned to the State with no forwarding address.

(i) The State must check the State's MES and the most recently available information from reliable data sources described in paragraph (f)(1)(iii) of this section for additional contact information. If updated in-State address information is available from such a reliable data source, then accept the information as reliable in accordance with paragraph (f)(2)(i) of this section.

(ii) If updated address information cannot be obtained and confirmed as reliable in accordance with paragraph (f)(4)(i) of this section, the State must make a good-faith effort, as described in paragraph (f)(5) of this section, to contact the enrollee to obtain updated address information.

(iii) If the State is unable to identify and confirm the enrollee's address pursuant to paragraph (f)(4)(i) or (ii) of this section and the enrollee's whereabouts remain unknown, the State must take appropriate steps to move the enrollee to a fee-for-service delivery system, or to terminate or suspend the enrollee's coverage.

(A) If the State elects to terminate or suspend coverage in accordance with this paragraph (f)(4)(iii), the State must send notice to the enrollee's last known address or via electronic notification, in accordance with the enrollee's election under § 457.110, no later than the date of termination or suspension and provide notice of an individual's rights to a CHIP review in accordance with § 457.340(e).

(B) If whereabouts of an enrollee whose coverage was terminated or suspended in accordance with this paragraph (f)(4)(iii) become known within the enrollee's eligibility period, as defined in § 435.916(b) of this chapter as referenced in § 457.343, the State—

(*1*) Must reinstate coverage back to the date of termination without requiring the individual to provide additional information to verify their eligibility, unless the State has other information available to it that indicates the enrollee may not meet all eligibility requirements.

(*2*) May begin a new eligibility period consistent paragraph (e)(2) of this section, if the State has sufficient information available to it to renew eligibility with respect to all eligibility criteria without requiring additional information from the enrollee.

(5) *A good-faith effort to contact an enrollee.* (i) For purposes of this paragraph (f), a good-faith effort includes:

(A) At least two attempts to contact the enrollee;

(B) Use of two or more modalities (such as, mail, phone, email);

(C) A reasonable period of time between contact attempts; and

(D) At least 30 calendar days for the enrollee to respond to confirm updated address information, consistent with paragraph (c)(1) of this section.

(ii) If the State does not have the information necessary to make at least two attempts to contact an enrollee through two or more modalities in accordance with paragraph (f)(5)(i) of this section, the State must make a note of that fact in the enrollee's case record.

■ 32. Section 457.348 is amended by—

■ a. In paragraph (a)(4), removing the phrase ''Provide for coordination of notices with other insurance'' and adding in its place the phrase ''Provide for a combined eligibility notice and coordination of notices with other insurance'';

■ b. Adding paragraph (a)(6);

■ c. Revising paragraph (b);

■ d. In paragraph (c)(3), removing the reference to ''§ 457.350(i)'' and adding in its place the reference ''§ 457.350(g)''; and

■ e. Adding paragraph (e).

The additions and revision read as follows:

§ 457.348 Determinations of Children's Health Insurance Program eligibility by other insurance affordability programs.

(a) * * *

(6) Seamlessly transition the enrollment of beneficiaries between CHIP and Medicaid when a beneficiary is determined eligible for one program by the agency administering the other.

(b) *Provision of CHIP for individuals found eligible for CHIP by another insurance affordability program.* (1) For each individual determined CHIP eligible in accordance with paragraph (b)(2) of this section, the State must—

(i) Establish procedures to receive, via secure electronic interface, the electronic account containing the determination of CHIP eligibility and notify such program of the receipt of the electronic account;

(ii) Comply with the provisions of § 457.340 to the same extent as if the application had been submitted to the State; and

(iii) Maintain proper oversight of the eligibility determinations made by the other program.

(2) For purposes of paragraph (b)(1) of this section, individuals determined eligible for CHIP in this paragraph (b) include:

(i) Individuals determined eligible for CHIP by another insurance affordability program, including the Exchange, pursuant to an agreement between the State and the other insurance affordability program (including as a result of a decision made by the program or the program's appeal entity in accordance with paragraph (a) of this section); and

(ii) Individuals determined eligible for CHIP by the State Medicaid agency (including as the result of a decision made by the Medicaid appeals entity) in accordance with paragraph (e) of this section.

* * * * *

(e) *CHIP determinations made by other insurance affordability programs.* The State must accept a determination of eligibility for CHIP from the Medicaid agency in the State. In order to comply with the requirement in this paragraph (e), the agency may:

(1) Apply the same modified adjusted gross income (MAGI)-based methodologies in accordance with § 457.315, and verification policies and procedures in accordance with § 457.380 as those used by the Medicaid agency in accordance with §§ 435.940 through 435.956 of this chapter, such that the agency will accept any finding relating to a criterion of eligibility made by a Medicaid agency without further verification;

(2) Enter into an agreement under which the State delegates authority to the Medicaid agency to make final determinations of CHIP eligibility; or

(3) Adopt other procedures approved by the Secretary.

■ 33. Section 457.350 is revised to read as follows:

§ 457.350 Eligibility screening and enrollment in other insurance affordability programs.

(a) *State plan requirement.* The State plan shall include a description of the coordinated eligibility and enrollment procedures used, at an initial and any follow-up eligibility determination, including any periodic redetermination, to ensure that:

(1) Only targeted low-income children are furnished CHIP coverage under the plan; and

(2) Enrollment is facilitated for applicants and enrollees found to be eligible or potentially eligible for other insurance affordability programs in accordance with this section.

(b) *Evaluation of eligibility for other insurance affordability programs.* (1) For individuals described in paragraph (b)(2) of this section, promptly and without undue delay, consistent with the timeliness standards established under § 457.340(d), the State must:

(i) Determine eligibility for Medicaid on the basis of having household income at or below the applicable modified adjusted gross income standard, as defined in § 435.911(b) of this chapter (''MAGI-based Medicaid''); and

(ii) If unable to make a determination of eligibility for MAGI-based Medicaid, identify potential eligibility for other insurance affordability programs, including Medicaid on a basis other than MAGI, the Basic Health Program (BHP) in accordance with § 600.305(a) of this chapter, or insurance affordability programs available through

the Exchange, as indicated by information provided on the application or renewal form provided by or on behalf of the beneficiary, including information obtained by the agency from other trusted electronic data sources.

(2) Individuals to whom paragraph (b)(1) of this section applies include:

(i) Any applicant who submits an application to the State which includes sufficient information to determine CHIP eligibility;

(ii) Any enrollee whose eligibility is being redetermined at renewal or due to a change in circumstance per § 457.343; and

(iii) Any enrollee whom the State determines is not eligible for CHIP, or who is determined not eligible for CHIP as a result of a review conducted in accordance with subpart K of this part.

(3) In determining eligibility for Medicaid as described in paragraph (b)(1) of this section, the State must utilize the option the Medicaid agency has elected at § 435.1200(b)(4) of this chapter to accept determinations of MAGI-based Medicaid eligibility made by a separate CHIP, and which must be detailed in the agreement described at § 457.348(a).

(c) *Income eligibility test.* To determine eligibility as described in paragraph (b)(1)(i) of this section and to identify the individuals described in paragraph (b)(1)(ii) of this section who are potentially eligible for BHP or insurance affordability programs available through an Exchange, a State must apply the MAGI-based methodologies used to determine household income described in § 457.315 or such methodologies as are applied by such other programs.

(d) *Individuals found eligible for Medicaid based on MAGI.* For individuals identified in paragraph (b)(1) of this section, the State must—

(1) Promptly and without undue delay, consistent with the timeliness standards established under § 457.340(d), transfer the individual's electronic account to the Medicaid agency via a secure electronic interface; and

(2) Except as provided in § 457.355, find the applicant ineligible for CHIP.

(e) *Individuals potentially eligible for Medicaid on a basis other than MAGI.* For individuals identified as potentially eligible for Medicaid on a non-MAGI basis, as described in paragraph (b)(1)(ii) of this section, the State must—

(1) Promptly and without undue delay, consistent with the timeliness standards established under § 457.340(d), transfer the electronic account to the Medicaid agency via a secure electronic interface.

(2) Complete the determination of eligibility for CHIP in accordance with § 457.340 or evaluation for potential eligibility for other insurance affordability programs in accordance with paragraph (b) of this section.

(3) Include in the notice of CHIP eligibility or ineligibility provided under § 457.340(e), as appropriate, coordinated content relating to—

(i) The transfer of the individual's electronic account to the Medicaid agency per paragraph (e)(1) of this section;

(ii) The transfer of the individual's account to another insurance affordability program in accordance with paragraph (g) of this section, if applicable; and

(iii) The impact that an approval of Medicaid eligibility will have on the individual's eligibility for CHIP or another insurance affordability program, as appropriate.

(4) Disenroll the enrollee from CHIP if the State is notified in accordance with § 435.1200(d)(5) of this chapter that the applicant has been determined eligible for Medicaid.

(f) *Children found ineligible for Medicaid based on MAGI, and potentially ineligible for Medicaid on a basis other than MAGI.* If a State uses a screening procedure other than a full determination of Medicaid eligibility under all possible eligibility groups, and the screening process reveals that the child does not appear to be eligible for Medicaid, the State must provide the child's family with the following in writing:

(1) A statement that based on a limited review, the child does not appear eligible for Medicaid, but Medicaid eligibility can only be determined based on a full review of a Medicaid application under all Medicaid eligibility groups;

(2) Information about Medicaid eligibility rules, covered benefits, and restrictions on cost sharing; and

(3) Information about how and where to apply for Medicaid under all eligibility groups.

(4) The State will determine the written format and timing of the information regarding Medicaid eligibility, benefits, and the application process required under this paragraph (f).

(g) *Individuals found potentially eligible for other insurance affordability programs.* For individuals identified in paragraph (b)(1)(ii) of this section who have been identified as potentially eligible for BHP or insurance affordability programs available through the Exchange, the State must promptly and without undue delay, consistent with the timeliness standards established under § 457.340(d), transfer the electronic account to the other insurance affordability program via a secure electronic interface.

(h) *Evaluation of eligibility for Exchange coverage.* A State may enter into an arrangement with the Exchange for the entity that determines eligibility for CHIP to make determinations of eligibility for advance payments of the premium tax credit and cost sharing reductions, consistent with 45 CFR 155.110(a)(2).

(i) *Waiting lists, enrollment caps and closed enrollment.* The State must establish procedures to ensure that—

(1) The procedures developed in accordance with this section have been followed for each child applying for a separate child health program before placing the child on a waiting list or otherwise deferring action on the child's application for the separate child health program;

(2) Children placed on a waiting list or for whom action on their application is otherwise deferred are transferred to other insurance affordability programs in accordance with paragraph (h) of this section; and

(3) Families are informed that a child may be eligible for other insurance affordability programs, while the child is on a waiting list for a separate child health program or if circumstances change, for Medicaid.

■ 34. Section 457.480 is amended by—

■ a. Revising the section heading;

■ b. Redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively; and

■ c. Adding a new paragraph (a).

The revision and addition read as follows:

§ 457.480 Prohibited coverage limitations, preexisting condition exclusions, and relation to other laws.

(a) *Prohibited coverage limitations.* The State may not impose any annual, lifetime or other aggregate dollar limitations on any medical or dental services which are covered under the State plan.

* * * * *

■ 35. Section 457.570 is amended by revising and republishing paragraph (c) to read as follows:

§ 457.570 Disenrollment protections.

* * * * *

(c) The State must ensure that disenrollment policies, such as policies related to non-payment of premiums, do not present barriers to the timely determination of eligibility and

enrollment in coverage of an eligible child in the appropriate insurance affordability program. A State may not—

(1) Impose a specified period of time that a CHIP eligible targeted low-income child or targeted low-income pregnant woman who has an unpaid premium or enrollment fee will not be permitted to reenroll for coverage in CHIP.

(2) Require the collection of past due premiums or enrollment fees as a condition of eligibility for reenrollment if an individual was terminated for failure to pay premiums.

* * * * *

■ 36. Section 457.805 is amended by revising paragraph (b) to read as follows:

§ 457.805 State plan requirement: Procedures to address substitution under group health plans.

* * * * *

(b) *Limitations.* A State may not, under this section, impose a waiting period before enrolling into CHIP an eligible individual who has been disenrolled from group health plan coverage, Medicaid, or another insurance affordability program. States must conduct monitoring activities to prevent substitution of coverage.

■ 37. Section 457.810 is amended by revising paragraph (a) to read as follows:

§ 457.810 Premium assistance programs: Required protections against substitution.

* * * * *

(a) *Prohibition of waiting periods.* A State may not, under this section, impose a waiting period before enrolling into CHIP premium assistance coverage an eligible individual who has access to, but is not enrolled in, group health plan coverage.

* * * * *

§ 457.960 [Removed]

■ 38. Section 457.960 is removed.

■ 39. Section 457.965 is revised to read as follows:

§ 457.965 Documentation.

(a) *Basis and purpose.* This section, based on section 2101 of the Act, prescribes the kinds of records a State must maintain, the minimum retention period for such records, and the conditions under which those records must be provided or made available.

(b) *Content of records.* A State plan must provide that the State will maintain or supervise the maintenance of the records necessary for the proper and efficient operation of the plan. The records must include all of the following:

(1) Individual records on each applicant and enrollee that contain all of the following:

(i) All information provided on the initial application submitted through any modality described in § 435.907(a) of this chapter as referenced in § 457.330, by, or on behalf of, the applicant or enrollee, including the signature on and date of application.

(ii) The electronic account and any information or other documentation received from another insurance affordability program in accordance with § 457.348(b) and (c).

(iii) The date of, basis for, and all documents or other evidence to support any determination, denial, or other adverse action, including decisions made at application, renewal, and a result of a change in circumstance, taken with respect to the applicant or enrollee, including all information provided by the applicant or enrollee, and all information obtained electronically or otherwise by the State from third-party sources.

(iv) The provision of, and payment for, services, items and other child health assistance or pregnancy-related assistance, including the service or item provided, relevant diagnoses, the date that the item or service was provided, the practitioner or provider rendering, providing or prescribing the service or item, including their National Provider Identifier, and the full amount paid or reimbursed for the service or item, and any third-party liabilities.

(v) Any changes in circumstances reported by the individual and any actions taken by the State in response to such reports.

(vi) All renewal forms returned by, or on behalf of, a beneficiary, to the State in accordance with § 457.343, regardless of the modality through which such forms are submitted, including the signature on the form and date received.

(vii) All notices provided to the applicant or enrollee in accordance with § 457.340(e) and § 457.1180.

(viii) All records pertaining to any State reviews requested by, or on behalf of, the applicant or enrollee, including each request submitted and the date of such request, the complete record of the review decision, as described in subpart K of this part, and the final administrative action taken by the agency following the review decision and date of such action.

(ix) The disposition of income and eligibility verification information received under § 457.380, including evidence that no information was returned from an electronic data source.

(2) Statistical, fiscal, and other records necessary for reporting and accountability as required by the Secretary.

(c) *Retention of records.* The State plan must provide that the records required under paragraph (b) of this section will be retained for the period when the applicant or enrollee's case is active, plus a minimum of 3 years thereafter.

(d) *Accessibility and availability of records.* The agency must—

(1) Maintain the records described in paragraph (b) of this section in an electronic format; and

(2) To the extent permitted under Federal law, make the records available to the Secretary, Federal and State auditors and other parties who request, and are authorized to review, such records within 30 calendar days of the request (or longer period specified in the request), except when there is an administrative or other emergency beyond the agency's control.

(e) *Release and safeguarding information.* The State must provide safeguards that restrict the use or disclosure of information contained in the records described in paragraph (b) of this section in accordance with the requirements set forth in § 457.1110.

■ 40. Section 457.1140 is amended by revising paragraph (d)(4) to read as follows:

§ 457.1140 Program specific review process: Core elements of review.

* * * * *

(d) * * *

(4) Receive continued enrollment and benefits in accordance with § 457.1170.

■ 41. Section 457.1170 is revised to read as follows:

§ 457.1170 Program specific review process: Continuation of enrollment.

A State must ensure the opportunity for continuation of enrollment and benefits pending the completion of review of the following:

(a) A suspension or termination of enrollment, including a decision to disenroll for failure to pay cost sharing; and

(b) A failure to make a timely determination of eligibility at application and renewal.

■ 42. Section 457.1180 is revised to read as follows:

§ 457.1180 Program specific review process: Notice.

A State must provide enrollees and applicants timely written notice of any determinations required to be subject to review under § 457.1130 that includes the reasons for the determination, an explanation of applicable rights to review of that determination, the standard and expedited time frames for review, the manner in which a review

can be requested, and the circumstances under which enrollment and benefits may continue pending review.

PART 600—ADMINISTRATION, ELIGIBILITY, ESSENTIAL HEALTH BENEFITS, PERFORMANCE STANDARDS, SERVICE DELIVERY REQUIREMENTS, PREMIUM AND COST SHARING, ALLOTMENTS, AND RECONCILIATION

■ 43. The authority citation for part 600 continues to read as follows:

Authority: Section 1331 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148, 124 Stat. 119), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, 124 Stat 1029).

■ 44. Section 600.330 is amended by revising paragraph (a) to read as follows:

§ 600.330 Coordination with other insurance affordability programs.

(a) *Coordination.* The State must establish eligibility and enrollment mechanisms and procedures to maximize coordination with the Exchange, Medicaid, and Children's Health Insurance Program (CHIP). The terms of 45 CFR 155.345(a) regarding the agreements between insurance affordability programs apply to a BHP. The State BHP agency must fulfill the requirements of § 435.1200(d), (e)(1)(ii), and (e)(3) of this chapter and, if applicable, paragraph (c) of this section for BHP eligible individuals.

* * * * *

■ 45. Section 600.525 is amended by revising paragraph (b)(2) to read as follows:

§ 600.525 Disenrollment procedures and consequences for nonpayment of premiums.

* * * * *

(b) * * *

(2) A State electing to enroll eligible individuals throughout the year must comply with the reenrollment standards set forth in § 457.570(c) of this chapter.

Xavier Becerra,

Secretary, Department of Health and Human Services.

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