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

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Presidential Documents

Title 3—

The President

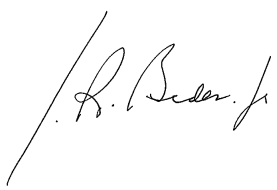
Notice of July 10, 2024

Continuation of the National Emergency With Respect to Hong Kong

On July 14, 2020, by Executive Order 13936, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the situation with respect to Hong Kong.

The situation with respect to Hong Kong, including recent actions taken by the People's Republic of China to fundamentally undermine Hong Kong's autonomy, continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on July 14, 2020, must continue in effect beyond July 14, 2024. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13936 with respect to the situation in Hong Kong.

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



THE WHITE HOUSE,
July 10, 2024.

[FR Doc. 2024–15470
Filed 7–11–24; 8:45 am]
Billing code 3395–F4–P

Federal Register
Vol. 89, No. 134
Friday, July 12, 2024

Presidential Documents

Title 3—

The President

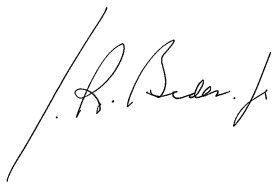
Memorandum of June 7, 2024

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $225 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 7, 2024

[FR Doc. 2024–15477
Filed 7–11–24; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of June 21, 2024

Delegation of Authority Under Section 1247 of the National Defense Authorization Act for Fiscal Year 2024

Memorandum for the Secretary of State

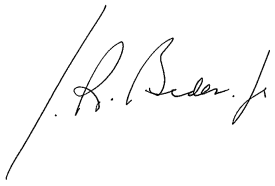
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the authority under section 1247(e) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) (the ''Act'') to submit to the appropriate committees of the Congress, as defined in section 1247(f) of the Act:

(a) the strategy authorized by section 1247(b) of the Act; and

(b) the authority and resourcing assessment required by section 1247(d) of the Act.

The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as the provision referenced in this memorandum.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 21, 2024

[FR Doc. 2024–15478
Filed 7–11–24; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of June 21, 2024

Establishment of the Economic Diplomacy Action Group and Delegation of Certain Functions and Authorities Under the Championing American Business Through Diplomacy Act of 2019

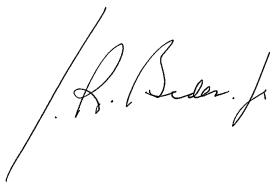
Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Agriculture[,] the Secretary of Commerce[,] the United States Trade Representative[,] the Administrator of the United States Agency for International Development[,] the President of the Export-Import Bank of the United States[, and] the Chief Executive Officer of the United States International Development Finance Corporation

Supporting United States economic and business interests abroad is a foreign policy priority. United States business has a critical role to play in advancing broader United States national security and foreign policy interests. Economic diplomacy can help to promote broad-based, inclusive, responsible, and sustainable economic growth, which enhances regional stability and creates new and growing markets for United States companies and opportunities for United States workers. By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and section 708 of the Championing American Business Through Diplomacy Act of 2019 (Title VII of Division J of Public Law 116–94) (the ''Act''), I hereby establish the Economic Diplomacy Action Group (EDAG) and delegate to you the functions and authorities vested in the President by subsection 708(c)(3) of the Act to appoint to the EDAG senior officials from your respective executive departments and agencies (agencies).

With respect to the performance of responsibilities under this memorandum, the Secretary of State, in coordination with the heads of relevant agencies, shall encourage and coordinate the appointment of members of the EDAG by the heads of their respective agencies. Consistent with the Act, such members, as well as any designated alternates, shall be senior officials who exercise significant decision-making authority within their respective agencies.

The delegation in this memorandum shall apply to any provisions of any future public laws that are the same or substantially the same as those provisions referenced in this memorandum.

The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 21, 2024

[FR Doc. 2024–15481
Filed 7–11–24; 8:45 am]
Billing code 4710–10–P

Presidential Documents

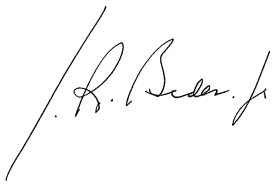
Presidential Determination No. 2024–05 of June 24, 2024

Designation of Kenya as a Major Non-NATO Ally

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 517 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2321k) (the ''Act''), I hereby designate Kenya as a Major Non-NATO Ally of the United States for the purposes of the Act and the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

You are authorized and directed to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 24, 2024

[FR Doc. 2024–15482
Filed 7–11–24; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2024–06 of June 28, 2024

Presidential Determination and Certification With Respect to the Child Soldiers Prevention Act of 2008

Memorandum for the Secretary of State

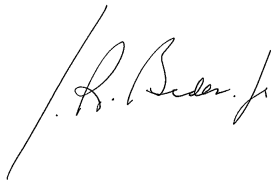
Pursuant to section 404 of the Child Soldiers Prevention Act of 2008 (22 U.S.C. 2370c–1) (CSPA), I hereby:

Determine that it is in the national interest of the United States to waive the application of the prohibition in section 404(a) of the CSPA with respect to Turkey; and

Certify that the Government of Turkey is taking effective and continuing steps to address the problem of child soldiers.

Accordingly, I hereby waive such application of section 404(a) of the CSPA.

You are authorized and directed to submit this determination and certification to the Congress, along with the Memorandum of Justification, and to publish this determination and certification in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 28, 2024

[FR Doc. 2024–15485
Filed 7–11–24; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 926 and 929

[Doc. No. AMS–SC–23–0047]

Cranberries Grown in Massachusetts, et al.; Termination of Marketing Order and Data Collection Requirements for Cranberries Not Subject to the Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; termination of order.

SUMMARY: This rulemaking terminates Federal Marketing Order No. 929 regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, and the rules and regulations issued thereunder. The data collection, reporting and recordkeeping requirements applicable to cranberries not subject to the marketing order are also terminated (7 CFR part 926). This rulemaking also removes the marketing order from the Code of Federal Regulations.

DATES: *Effective Date:* July 31, 2024.

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Chief, Southeast Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375 or Email: *Jennie.Varela@usda.gov* or *Christian.Nissen@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, terminates regulations issued to carry out a marketing order as defined in 7 CFR part 900.2(j). This rulemaking is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Part 929, referred to as the ''Order,'' is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Cranberry Marketing Committee (Committee) locally administers the Order and is comprised of producers operating within the production area and a public member.

This rulemaking is also issued under section 8d of the Act (7 U.S.C. 608d(3)), which authorizes the collection of cranberry and cranberry product information from producer-handlers, second handlers, processors, brokers, and importers including those not subject to regulation under the Order.

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

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

This rulemaking has been reviewed under Executive Order 12988, Civil Justice Reform. This rulemaking is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to a marketing order may file with USDA a petition stating that the marketing order, any provision of the marketing order, or any obligation imposed in connection with the marketing order is not in accordance with law and request a modification of the marketing order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rulemaking terminates the Order regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, and removes the Order from the Code of Federal Regulations. Section 929.69 of the Order states AMS shall conduct a referendum during the month of May 1975 and every fourth year thereafter to ascertain whether continuance is favored by producers. Under this section, the Secretary shall terminate the Order if termination is favored by a majority of the growers, and that this majority has, during the current fiscal year, produced more than 50 percent of the cranberries produced in the production area.

As required by the Order, AMS held a continuance referendum among cranberry producers from June 9 through June 30, 2023, to determine if

they favored continuation of the program. AMS mailed ballots to 944 producers in the production area. Those producers cast 366 valid ballots. The results indicate 73.5 percent of cranberry growers, who produced 79.9 percent of the production volume, voted in favor of terminating the program. Consequently, the vote met the Order's criteria for termination, demonstrating a lack of the producer support needed to carry out the objectives of the Act.

Section 608d(3) of the Act authorizes the collection of cranberry and cranberry product information from producer-handlers, second handlers, processors, brokers, and importers. This data collection is codified in 7 CFR part 926, Data Collection, Reporting and Recordkeeping Requirements Applicable to Cranberries Not Subject to the Cranberry Marketing Order, establishing reporting requirements for cranberry and cranberry products not subject to the Order and how they were to be reported to the Committee. Section 926.21 states this part shall be suspended or terminated whenever there is no longer a Federal cranberry marketing order in effect. This rulemaking also terminates 7 CFR part 926 which has been suspended since December 29, 2006.

In addition, section 608c(16)(A) of the Act provides that the Secretary shall terminate or suspend the operation of any order whenever the Order or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act. Based on the foregoing, and pursuant to § 608c(16)(A) of the Act and § 929.69 of the Order, the Secretary is terminating the Order.

The Order has been in effect since 1962 and provided the cranberry industry with authority for production research, marketing promotion and development, paid advertising, authority for volume regulation through producer allotments or handler withholding, and reporting and recordkeeping functions needed to operate the program. The Committee, which locally administered the Order, was funded by assessments imposed on handlers. Although marketing order requirements are applied to handlers, the costs of such requirements are often passed on to producers.

Terminating the Order and all the rules and regulations issued thereunder, means the perceived benefits correlated with the Order are also lost. An alternative to this action would be to maintain the Order and its current provisions. However, a review of the continuance referendum results showed producers believe the benefits of the program no longer outweigh the costs to handlers and producers. In addition, termination of the Order and the resulting regulatory relaxation is expected to reduce costs for both producers and handlers. Therefore, this alternative was rejected.

This rulemaking terminates the Order and the rules and regulations issued thereunder and removes the suspended data collection requirements in 7 CFR part 926.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rulemaking on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 950 cranberry growers in the regulated area and approximately 45 cranberry handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $3,750,000, (North American Industry Classification System (NAICS) code 111334, Berry (except Strawberry) Farming) and small agricultural service firms are defined as those whose annual receipts are less than $34,000,000 (NAICS code 115114, Postharvest Crop Activities) (13 CFR part 121.201).

According to the National Agricultural Statistics Service (NASS), the average grower price for U.S. cranberries during the 2022–23 season was $36.60 per barrel and utilized production was 8,010,070 barrels. The value for cranberries that year totaled $293,168,562, ($36.60 per barrel multiplied by 8,010,070 barrels). Taking the total value of production for cranberries and dividing it by the total number of cranberry growers provides an average return per grower of $308,598. Using the average price and utilization information, and assuming a normal distribution, the majority of cranberry growers receive less than $3,750,000 annually.

According to USDA's Market News retail averages report, the price per pound of fresh cranberries on average was $1.64 in December of 2022. On average, NASS reports that grower prices for fresh cranberries are almost double (199 percent) grower prices for processed cranberries. Dividing the average fresh retail price as reported by Market News ($1.64) by 1.99 calculates to an estimated average retail processed price of $0.82 per pound. There are 100 pounds of cranberries per barrel so the average retail price for a barrel of cranberries would be $82. Multiplying the average retail price by total utilization of 8 million barrels results in an estimated cranberry retail value of $656 million. Dividing this figure by the number of handlers (45) yields an estimated average of annual handler receipts of $14.6 million, which is below the SBA threshold for small agricultural service firms. Therefore, the majority of producers and handlers of cranberries may be classified as small entities.

This rulemaking terminates the Order, and the rules and regulations issued thereunder and will remove the Order from the Code of Federal Regulations. Section 929.69 states the Secretary shall terminate the Order if termination is favored by a majority of the growers, and if that majority has, during the current fiscal year, produced more than 50 percent of the cranberries produced in the production area. This rulemaking also removes the requirements of 7 CFR part 926, which required the data collection of cranberries not covered under the Order. In addition, section 608c(16)(A) of the Act provides that the Secretary terminate or suspend the operation of any order whenever the order or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act. An additional provision requires that Congress be notified no later than 60 days before the date the Order is terminated.

Marketing orders provide industries with tools to assist producers and handlers in addressing challenges facing the industry. These tools include establishing minimum grade, size, quality, and maturity requirements, setting size, capacity, weight, dimensions or pack of the containers, collecting and publishing market information useful to producers and handlers, conducting research and promotions, and establishing volume control requirements. Each marketing order is different, with the industries deciding the authorities needed and the scope of their marketing order. Marketing orders are approved by producers through referenda and regulate handlers to ensure compliance with all requirements. The authority of a marketing order allows each industry to create a local administrative

committee that is made up of growers and/or handlers that work collectively to solve industry problems. After considering the alternative, the Committee concluded that regulating the handling of cranberries under the Order is no longer necessary to ensure orderly marketing of cranberries. The costs associated with the administration of the Order outweigh the benefits, and that termination of the Order would not have a negative impact on industry.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189 Fruit Crops. After finalizing termination, AMS will extract the remaining cranberry marketing order-related forms from the forms package during the next three-year renewal process. OMB's three-year expiration date for the package containing cranberry marketing order forms is January 31, 2027.

This rule effectuates the removal of reporting and recordkeeping requirements on cranberry handlers, both small and large. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, AMS has not identified any relevant Federal rules that duplicate, overlap or conflict with this rulemaking.

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

The producer referendum was well publicized in the production area, and referendum ballots were provided to all known producers. As such, producers of U.S. cranberries had an opportunity to indicate their continued support for the Order.

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

A proposed rule inviting comments on the termination of the Order was published in the **Federal Register** on December 7, 2023 (88 FR 85130). A 60-day comment period was provided to allow interested persons an opportunity to respond to the proposed termination of the Order. In addition, AMS published on its website and distributed to industry stakeholders a notice to trade announcing the proposed termination of the Order. Five total comments were received. One comment supported the termination, and one comment was not relevant to the proposal. Three non-substantive comments opposed the termination of the Order, expressing the program is a value to small businesses. Producers of both large and small businesses were provided the opportunity to show support for the Order during the continuance referendum. Further, producers who voted in the referendum elected to terminate the Order indicating the costs associated with the administration of the Order outweigh the benefits and, therefore, the Order is no longer meeting the needs of the industry. Those producers also believe that terminating the Order will not have a negative impact on the industry. Accordingly, after reviewing and considering all comments received during the comment period, the Secretary determined that termination of the Order was appropriate. All the comments may be viewed at *https://www.regulations.gov.*

Based on the foregoing, and pursuant to section 608c(16)(A) of the Act and § 929.69 of the Order, it is hereby found that Federal Marketing Order No. 929 regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York does not tend to effectuate the declared policy of the Act and is therefore terminated.

Following termination, trustees will be appointed to conclude and liquidate the Committee affairs and will continue in that capacity until discharged by the Secretary. In addition, pursuant to 608c(16)(A) of the Act, USDA is required to notify Congress 60 days in advance of termination. Congress was so notified on April 11, 2024.

List of Subjects

7 CFR Part 926

Cranberries, Reporting and recordkeeping requirements.

7 CFR Part 929

Acreage allotments, Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

PARTS 926 AND 929—[REMOVED]

■ For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, the Agricultural Marketing Service amends title 7, chapter IX of the Code of Federal Regulations by removing parts 926 and 929.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–15246 Filed 7–11–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Doc. No. AMS–SC–23–0087]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action decreases the assessment rate established for the 2024 fiscal year and subsequent fiscal years for California olives as recommended by the California Olive Committee. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective August 12, 2024.

FOR FURTHER INFORMATION CONTACT: Jeremy Sasselli, Marketing Specialist, or Barry Broadbent, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, or Email: *Jeremy.Sasselli@usda.gov* or *Barry.Broadbent@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California. Part 932 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers and handlers of olives operating within the area of production.

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

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. Under the Order now in effect, California olive handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate this rule establishes will be applicable to all assessable olives beginning on January 1, 2024, and continue until amended, suspended, or terminated.

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

Section 932.38 of the Order authorizes the Committee, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus able to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

This rule decreases the assessment rate from $35 per ton of assessed olives, the rate that was established for the 2023 fiscal year and subsequent fiscal years, to $28 per ton of assessed olives for the 2024 fiscal year and subsequent fiscal years. The lower rate is the result of the significantly higher crop size in 2023 (fruit that is marketed over the course of the 2024 fiscal year), and the need to maintain the Committee's financial reserve at a responsible level.

The Committee met on December 12, 2023, and unanimously recommended 2024 expenditures of $1,100,151 and an assessment rate of $28 per ton of assessed olives. In comparison, last year's budgeted expenditures were $1,154,412. The assessment rate of $28 set for the remainder of the 2024 fiscal year and subsequent fiscal years is $7 lower than the rate established for the 2023 fiscal year. Producer receipts show total production of approximately 34,000 tons of olives from the 2023 crop year that will be assessable during the 2024 fiscal year. This amount is substantially higher than the quantity of olives that was harvested in 2022.

Olives harvested in 2023 will be marketed over the course of the 2024 fiscal year, which begins on January 1, 2024, as the harvested olives are stored in brining tanks and processed over the subsequent year. At the $28 per ton assessment rate, the estimated 34,000 tons of assessable olives from the 2023 crop are expected to generate $952,000 in assessment revenue over the 2024 fiscal year. The balance of funds needed to cover budgeted expenditures will come from interest income and the Committee's financial reserve. The 2024 fiscal year assessment rate decrease is appropriate to ensure the Committee has sufficient revenue to fund the recommended 2024 fiscal year budgeted expenditures while also ensuring that funds in the reserve do not exceed approximately one fiscal year's expenses, the maximum reserve amount permitted by § 932.40.

The Order has a fiscal year and a crop year that are independent of each other. The crop year is a 12-month period that begins on August 1 of each year and ends on July 31 of the following year. The fiscal year is the 12-month period that begins on January 1 and ends on December 31 of each year. Olives are an alternate-bearing crop, with a small crop (2022) followed by a large crop (2023). For this assessment rate rule, the Committee utilized the estimated 2023 crop year receipts to determine the recommended assessment rate for the 2024 fiscal year.

The major expenditures recommended by the Committee for the 2024 fiscal year include $350,250 for program administration, $164,650 for export programs, $197,500 for marketing activities, $302,751 for research, and $85,000 for inspection. Budgeted expenses for these items during the 2023 fiscal year were $399,700, $148,000, $193,000, $325,712, and $88,000, respectively.

The assessment rate recommended by the Committee resulted from consideration of anticipated fiscal year expenses, estimated olive tonnage received by handlers during the 2023 crop year, and the amount in the Committee's financial reserve. Income derived from handler assessments and other revenue sources is expected to be adequate to cover budgeted expenses. The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or AMS. Committee meetings are open to the public and interested persons may express their views at these meetings. AMS will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's budget for subsequent

fiscal years will be reviewed and, as appropriate, approved by AMS.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 800 producers of olives in the production area and 2 handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts equal to or less than $3.5 million (NAICS code 111339, Other Noncitrus Fruit Farming) and small agricultural service firms are defined as those whose annual receipts are equal to or less than $34.0 million (NAICS code 115114, Postharvest Crop Activities) (13 CFR 121.201).

Because of the large year-to-year variation in California olive production, it is helpful to use a two-year average of the seasonal average producer price when undertaking calculations relating to average producer revenue. The National Agricultural Statistics Service (NASS) reported season average producer prices of olives utilized for canning for 2021 and 2022 of $851 and $913 per ton, respectively, with a two-year average price of $882. NASS had not reported the 2023 season average producer price at the time this rule was published.

The appropriate quantities to consider are the annual assessable olive quantities, which were 43,336 tons in 2021 and 19,912 tons in 2022, with the two-year average production being 31,624 tons. Multiplying 31,624 tons by the two-year average producer price of $882 yields a two-year average crop value of $27,892,368. Dividing the crop value by the number of olive producers (800) yields calculated annual average producer revenue of $34,865, much less than SBA's size standard of $3.5 million. Thus, the majority of olive producers may be classified as small entities.

Dividing the $27,892,368 average crop value by 2 (the number of handlers) equals $13,946,184, which is the annual average producer crop value processed by each of the 2 handlers over the two-year period. Dividing the $34.0 million annual sales SBA size threshold for a large handler by the $13,946,184 crop value per handler yields an estimate of a 125 percent manufacturing margin for the 2 handlers, on average, to be considered large handlers. A key question is whether 125 percent is a reasonable estimate of a manufacturing margin for the olive canning process.

A review of economic literature on canned food manufacturing margins found no recent published estimates. A series of Economic Research Service reports on cost components of farm to retail price spreads, published in the late 1970s and early 1980s, found that margins above crop value for a canned vegetable product were in the range of 76 to 85 percent. Although the studies are not recent, canning technology has not changed significantly since that time. Therefore, with the 125 percent margin estimate for the 2 olive handlers, the data indicates that they could be on the threshold of being large handlers ($34.0 million in annual sales), using two-year average data, and assuming that the 2 handlers are about the same size. In a large crop year, one or both handlers could be considered large handlers, depending on the proportion of the crop that each of the handlers processed.

This action decreases the assessment rate collected from handlers for the 2024 fiscal year and subsequent fiscal years from $35 to $28 per ton of assessable olives. The Committee unanimously recommended 2024 expenditures of $1,100,151 and an assessment rate of $28 per ton. The recommended assessment rate of $28 is $7 lower than the 2023 assessment rate. The quantity of assessable olives harvested in the 2023 crop year is estimated to be 34,000 tons, compared to 19,912 tons in 2022. Olives are an alternate-bearing crop, with a small crop (2022) followed by a large crop (2023). Income derived from the $28 per ton assessment rate, along with interest income and funds from the authorized reserve, should be adequate to meet the 2024 fiscal year's budgeted expenditures.

The major expenditures recommended by the Committee for the 2024 fiscal year include $350,250 for program administration, $164,650 for export programs, $197,500 for marketing activities, $302,751 for research, and $85,000 for inspection. Budgeted expenses for these items during the 2023 fiscal year were $399,700, $148,000, $193,000, $325,712, and $88,000, respectively.

The Committee deliberated on many of the expenses, weighed the relative value of various programs or projects, and decreased their expenses for inspection and research activities while increasing marketing activities. Overall, the 2024 budget of $1,100,151 is $54,261 less than the $1,154,412 budgeted for the 2023 fiscal year.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources including the Committee's Executive, Marketing, Inspection, and Research Subcommittees. Alternate expenditure levels were discussed by these groups, based upon the relative value of various projects to the olive industry and the increased olive production. The assessment rate of $28 per ton of assessable olives was derived by considering anticipated expenses, the high volume of assessable olives, the current balance in the monetary reserve, and additional pertinent factors.

A review of information from NASS indicates that the average producer price for the 2022 crop year (the most recent year for which information is available) was $913 per ton. Therefore, utilizing the assessment rate established herein of $28 per ton, assessment revenue for the 2024 fiscal year as a percentage of total producer revenue would be approximately 3.1 percent ($28 divided by $913 times 100).

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers. Some of the assessment costs to handlers may be passed on to producers. Decreasing the assessment rate is expected to reduce the burden on handlers and may also, therefore, reduce the burden on producers.

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

This rule will not impose any additional reporting or recordkeeping requirements on either small or large California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide

increased opportunities for citizen access to Government information and services, and for other purposes.

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

A proposed rulemaking concerning this action was published in the **Federal Register** on March 28, 2024 (89 FR 21441). Copies of the proposed rulemaking were provided to all olive handlers. In addition, the proposal was made available through the internet by AMS and the Office of the **Federal Register**. A 30-day comment period ending April 29, 2024, was provided for interested persons to respond to the proposal. There were no comments received during the comment period. Accordingly, no changes will be made to the rulemaking as proposed.

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

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, AMS has determined that this rule is consistent with, and will effectuate the declared policy of, the Act.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 932 as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2024, an assessment rate of $28 per ton is established for California olives.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–15247 Filed 7–11–24; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2024–0096]

RIN 3150–AL17

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM FW System, Certificate of Compliance No. 1032, Amendment No. 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Holtec International HI–STORM Flood/Wind Multi-purpose Canister Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 7 to Certificate of Compliance No. 1032. Amendment No. 7 revises the certificate of compliance to add a new overpack, add new multi-purpose canisters MPC–44 and MPC–37P, and add new fuel type 10x10J to approved content. Amendment No. 7 also incorporates other technical changes and several editorial changes.

DATES: This direct final rule is effective September 25, 2024, unless significant adverse comments are received by August 12, 2024. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2024–0096 at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

You can read a plain language description of this direct final rule at *https://www.regulations.gov/docket/NRC-2024-0096.* 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: Caylee Kenny, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7150, email: *Caylee.Kenny@nrc.gov;* and Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–1018, email: *Yen-Ju.Chen@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0096 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–2024–0096. Address questions about NRC dockets to Dawn Forder, telephone: 301–415–3407, email: *Dawn.Forder@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- NRC's PDR: The PDR, where you may examine and order copies of

publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2024–0096 in your comment submission.

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

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

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment No. 7 to Certificate of Compliance (CoC) No. 1032 and does not include other aspects of the HI–STORM Flood/Wind Multi-purpose Canister Storage System (HI–STORM FW System) design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on September 25, 2024. However, if the NRC receives any significant adverse comment on this direct final rule by August 12, 2024, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register** or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

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

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

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

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

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

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

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

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on June 8, 2011 (76 FR 33121), that approved the Holtec International HI–STORM FW System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1032.

IV. Discussion of Changes

On May 6, 2021, Holtec International submitted a request to the NRC to amend Certificate of Compliance No. 1032. Holtec International supplemented its request on October 15, 2021; February 17, 2022; July 11, 2022; July 13, 2022; July 29, 2022; September 15, 2022; October 3, 2022; December 1, 2022; January 6, 2023; May 8, 2023; June 30, 2023; July 11, 2023; August 15, 2023; November 17, 2023; February 16, 2024; and April 8, 2024. Amendment No. 7 revises the CoC as follows:

1. Adds a new unventilated high density (UVH) overpack, HI–STORM 100 UVH, which includes high density concrete for shielding. The UVH is to be used with MPC–37, MPC–89, and the new MPC–44.

2. Modifies vent and drain penetrations to include the option of a second port cover plate.

3. Allows automated equipment to perform leak test of the MPC materials and welds in the fabrication shop.

4. Changes the hydrostatic pressure test of the MPC acceptance criteria to be examination for leakage only and removes post hydrostatic test liquid penetrant and magnetic particle examination.

5. Includes the ability to use computational fluid dynamics analysis to evaluate site-specific fire accident scenarios.

6. Uses updated methodology for tornado missile stability calculations for freestanding HI–STORMs and HI–TRACs (transfer casks) and clarifies the weights to be used for varying heights of HI–TRACs.

7. Adds the new MPC–44, with continuous basket shim (CBS) and to hold 44 pressurized-water reactor fuel assemblies of certain 14x14 fuel class. It is to be used with HI–STORM FW System Version E and UVH overpacks.

8. Adds the new MPC–37P, with CBS and to hold 37 pressurized-water reactor fuel assemblies of certain 15x15 fuel class. It is to be used with Version E overpack.

9. Adds HI–DRIP ancillary system, which is an optional ancillary system

designed to prevent water within the MPC while loaded in the HI–TRAC from boiling during loading and unloading operations.

10. Includes the ability to use computational fluid dynamics analysis to evaluate site-specific burial-under-debris accident scenarios.

11. Includes the ability to use water without glycol in the HI–TRAC water jacket during transfer operations below 32 °F based on the site specific MPC total heat loads.

12. Adds new 10x10J fuel type to approved content in the HI–STORM FW System.

13. Updates bounding fuel variables for 8x8F and 11x11A boiling-water reactor fuel types in CoC appendix B.

14. Adopts a stress-based structural design criterion.

15. Establishes specific criteria on allowable interference due to differential thermal expansion.

This amendment also makes the following editorial changes:

1. Revises the description of the HI–STORM FW System in the CoC to clearly indicate that only the portions of the components that come into contact with the pool water need to be made of stainless steel or aluminum. This change was previously approved in HI–STORM FW System Amendment No. 8.

2. Revises the statements in final safety analysis report (FSAR) Section 3.2 related to center of gravity eccentricities in the evaluation of lifting devices.

3. Revises the FSAR by deleting Appendices 3.A to 3.C and adding references to calculation packages [3.4.13] and [3.4.15], where applicable.

4. Revises CoC Appendix B Section 2.5 to clarify that the equation burn up and cooling time qualification requirements only apply to specific alternative loading patterns.

5. Revises the FSAR by adding discussions related to short-term operations in the event of environmental phenomena to provide clarity and guidance on required site-specific analyses.

6. Revises the FSAR by adding discussions related to site-specific analyses and adds references to a series of analysis methodologies for standardization.

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

In a final rule effective July 14, 2020 (85 FR 43419), the NRC approved Holtec International HI–STORM FW System Certificate of Compliance No. 1032, Amendment No. 4 but did not include the model number. The NRC is correcting the list of model numbers to include MPC–32ML.

As documented in the preliminary safety evaluation report, the NRC performed a safety evaluation of the proposed CoC amendment request. The NRC determined that this amendment does not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 7 would remain well within the limits specified by 10 CFR part 20, ''Standards for Protection Against Radiation.'' Thus, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC determined that the amended HI–STORM FW System cask design, when used under the conditions specified in the CoC, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into HI–STORM FW System casks that meet the criteria of Amendment No. 7 to Certificate of Compliance No. 1032.

V. Voluntary Consensus Standards

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

VI. Agreement State Compatibility

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

VII. Plain Writing

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

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

A. The Action

The action is to amend § 72.214 to revise the Holtec International HI–STORM FW System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 7 to Certificate of Compliance No. 1032.

B. The Need for the Action

This direct final rule amends the CoC for the Holtec International HI–STORM FW System design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 7 revises the CoC to add a new unventilated high density (UVH) overpack, modify vent and drain penetrations, allow automated equipment to perform leak test, change the hydrostatic pressure test acceptance criteria, include the ability to use computational fluid dynamics analysis to evaluate site-specific fire accident scenario, use updated methodology for tornado missile stability calculations,

add the new MPC–44, add the new MPC–37P, add HI–DRIP ancillary system, include the ability to use computational fluid dynamics analysis to evaluate site-specific burial-under-debris accident scenario, include the ability to use water without glycol in the HI–TRAC water jacket, add new 10x10J fuel type to approved content, update bounding fuel variables for specific fuel types, adopt a stress-based structural design criterion, establish specific criteria on allowable interference due to differential thermal expansion, and other editorial changes.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 7 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

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

This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 7 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule would maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation report.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 7 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into a Holtec International HI–STORM FW System in accordance with the changes described in proposed Amendment No. 7 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment No. 7 to Certificate of Compliance No. 1032 would result in no irreversible commitment of resources.

F. Agencies and Persons Contacted

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

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' Based on the foregoing environmental assessment, the NRC concludes that this direct final rule, ''List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM FW System Certificate of Compliance No. 1032, Amendment No. 7,'' will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Paperwork Reduction Act Statement

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

Public Protection Notification

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

X. Regulatory Flexibility Certification

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

XI. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if (1) it notifies the NRC in advance; (2) the spent fuel is stored under the conditions specified in the cask's CoC; and (3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On June 8, 2011 (76 FR 33121), the NRC issued an amendment to 10 CFR part 72 that approved the HI–STORM FW System by adding it to the list of NRC-approved cask designs in § 72.214.

On May 6, 2021, and as supplemented on October 15, 2021, February 17, 2022, July 11, 2022, July 13, 2022, July 29, 2022, September 15, 2022, October 3, 2022, December 1, 2022, January 6, 2023, May 8, 2023, June 30, 2023, July 11, 2023, August 15, 2023, November 17, 2023, February 16, 2024, and April 8, 2024, Holtec International submitted a request to amend the HI–STORM FW

System as described in Section IV, ''Discussion of Changes,'' of this document.

The alternative to this action is to withhold approval of Amendment No. 7 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the Holtec International HI–STORM FW System under the changes described in Amendment No. 7 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

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

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule (§ 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises Certificate of Compliance No. 1032 for the Holtec International HI–STORM FW System as currently listed in § 72.214. The revision consists of the changes in Amendment No. 7 previously described, as set forth in the revised CoC and technical specifications.

Amendment No. 7 to Certificate of Compliance No. 1032 for the Holtec International HI–STORM FW System was initiated by Holtec International and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 7 applies only to new casks fabricated and used under Amendment No. 7. These changes do not affect existing users of the Holtec International HI–STORM FW System and the current Amendment Nos. 6 and 8 continue to be effective for existing users. While current users of this storage system may comply with the new requirements in Amendment No. 7, this would be a voluntary decision on the part of current users.

For these reasons, Amendment No. 7 to Certificate of Compliance No. 1032 does not constitute backfitting under § 72.62 or § 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, the NRC has not prepared a backfit analysis for this rulemaking.

XIII. Congressional Review Act

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

XIV. Availability of Documents

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

Document	ADAMS accession No./web link/**Federal Register** citation
Proposed Certificate of Compliance and Proposed Technical Specifications	
Certificate of Compliance No.1032, Amendment No. 7	ML23030B793.
Certificate of Compliance No. 1032, Amendment 7, Appendix A: Technical Specifications	ML23030B794.
Certificate of Compliance No. 1032, Amendment 7, Appendix B: Approved Contents and Design Features	ML23030B795.
Certificate of Compliance No. 1032, Amendment No. 7, Preliminary Safety Evaluation Report	ML23030B796.
Environmental Documents	
Environmental Assessment for Proposed Rule Entitled, ''Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites,'' dated March 8, 1989.	ML051230231.
''Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR Part 72 License and Certificate of Compliance Terms,'' dated May 3, 2010.	ML100710441.
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG–2157, Volumes 1 and 2), dated September 30, 2014.	ML14198A440 (package).
''Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites'' Final Rule, dated July 18, 1990.	55 FR 29181.
Holtec International HI–STORM FW Amendment 7 Request Documents	
Holtec International—HI–STORM FW Amendment 7 Request, dated May 6, 2021	ML21126A266 (package).
Holtec International HI–STORM FW Amendment 7 Request	ML21126A267.
Attachment 1—HI–STORM FW Amendment 7 Summary of Proposed Changes	ML21126A268.
Attachment 2—HI–STORM FW Amendment 7 Certificate of Compliance	ML21126A269.
Attachment 3—HI–STORM FW Amendment 7 Certificate of Compliance, Appendix A	ML21126A270.
Attachment 4—HI–STORM FW Amendment 7 Certificate of Compliance, Appendix B	ML21126A271.
Attachment 6—HI–STORM FW FSAR Proposed Revision 9 Revised Pages (Non-Proprietary)	ML21126A273.
Attachment 29: Affidavit of Kimberly Manzione in Accordance with 10 CFR 2.390	ML21126A297.
HOLTEC International HI–STORM FW Amendment 7 Responses to Requests for Supplemental Information, dated October 15, 2021.	ML21288A521 (package).
Holtec International, HI–STORM FW Amendment 9 Request, dated February 17, 2022	ML22048C221.
Holtec International, HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 1, dated July 11, 2022.	ML22192A215 (package).
Holtec International, HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 1—Additional Supporting Documents, dated July 13, 2022.	ML22194A954.
HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 2, dated July 29, 2022	ML22210A145 (package).
Holtec International, HI–STORM FW Amendment 7 RAI Responses Part 1 Clarification Call Action Items, dated September 15, 2022.	ML22258A250 (package).

Document	ADAMS accession No./web link/**Federal Register** citation
HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 3, dated October 3, 2022	ML22276A281 (package).
HI–STORM FW Amendment 7 RAI 5–2 Response Clarification, dated December 1, 2022	ML22336A132 (package).
Holtec International HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 4, dated January 6, 2023.	ML23006A263 (package).
Holtec International—HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 5, dated May 8, 2023.	ML23128A302 (package).
Holtec International HI–STORM FW Amendment 7 RAI Responses Part 5 Clarification Call Action Items, dated June 30, 2023.	ML23181A192 (package).
Holtec International, HI–STORM FW Amendment 7 RAI Responses Part 5 Clarification Corrected Attachments 4 and 5, dated July 11, 2023.	ML23192A031 (package).
Holtec International, HI–STORM FW Amendment 7 RAI 3–10 Response Clarification Call Action Items, dated August 15, 2023.	ML23227A248 (package).
HI–STORM FW Amendment 7 RAI Response Clarifications (Part 3), dated November 17, 2023	ML23321A245 (package).
Holtec International, HI–STORM FW Amendment 7 RAI Response Clarifications (Part 4), dated February 16, 2024	ML24047A323 (package).
HI–STORM FW Amendment 7 RAI Response Clarifications (Part 5), dated April 8, 2024	ML24100A027 (package).
Other Documents	
User Need Memo for Rulemaking for the Holtec HI–STORM Flood/Wind Multi-Purpose Canister Storage System, CoC No. 1032, Amendment 7, dated May 17, 2024.	ML23030B792.
''Agreement State Program Policy Statement; Correction,'' dated October 18, 2017	82 FR 48535.
Plain Language in Government Writing, dated June 10, 1998	63 FR 31885.
Storage of Spent Fuel in NRC-Approved Storage Casks at Power Reactor Sites: Final Rule, dated July 18, 1990	55 FR 29181.
List of Approved Spent Fuel Storage Casks: HI–STORM Flood/Wind Addition, dated June 8, 2011	76 FR 33121.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2024–0096. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2024–0096); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

List of Subjects in 10 CFR Part 72

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

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

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

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

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1032 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1032.

Initial Certificate Effective Date: June 13, 2011, superseded by Amendment Number 0, Revision 1, on April 25, 2016.

Amendment Number 0, Revision 1, Effective Date: April 25, 2016.

Amendment Number 1 Effective Date: December 17, 2014, superseded by Amendment Number 1, Revision 1, on June 2, 2015.

Amendment Number 1, Revision 1, Effective Date: June 2, 2015.

Amendment Number 2 Effective Date: November 7, 2016.

Amendment Number 3 Effective Date: September 11, 2017.

Amendment Number 4 Effective Date: July 14, 2020.

Amendment Number 5 Effective Date: July 27, 2020.

Amendment Number 6 Effective Date: March 22, 2023.

Amendment Number 7 Effective Date: September 25, 2024.

Amendment Number 8 Effective Date: October 11, 2022.

SAR Submitted by: Holtec International.

SAR Title: Final Safety Analysis Report for the HI–STORM FW System.

Docket Number: 72–1032.

Certificate Expiration Date: June 12, 2031.

Model Number: HI–STORM FW MPC–32ML, MPC–37, MPC–37P, MPC–44, and MPC–89.

* * * * *

Dated: June 26, 2024.

For the Nuclear Regulatory Commission.

Raymond Furstenau,

Acting Executive Director for Operations.

[FR Doc. 2024–15133 Filed 7–11–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2024–1328; Special Conditions No. 25–866–SC]

Special Conditions: Gulfstream Aerospace Corporation (Gulfstream) Model GVII–G400 Airplane; Seats With Inflatable Lapbelts

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

ACTION: Final special conditions, request for comment.

SUMMARY: These special conditions are issued for the Gulfstream Model GVII–G400 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is seating with inflatable lapbelts. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Gulfstream on July 12, 2024. Send comments on or before August 26, 2024.

ADDRESSES: Send comments identified by Docket No. FAA–2024–1328 using any of the following methods:

- *Federal eRegulations 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 (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

FOR FURTHER INFORMATION CONTACT: Myra Kuck, Cabin Safety, AIR–624, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 3960 Paramount Blvd., Suite 100, Lakewood, CA 90712, telephone and fax (405) 666–1059; email *myra.j.kuck@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

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

Confidential Business Information

Confidential Business Information (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 these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of these proposed special conditions. Send submissions containing CBI to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these proposed special conditions.

Comments Invited

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

The FAA will consider all comments received by the closing date for comments, and will consider comments filed late if it is possible to do so without incurring delay. The FAA may change these special conditions based on the comments received.

Background

On December 15, 2020, Gulfstream applied for an amendment to Type Certificate No. T00021AT to include the new Model GVII–G400. The Gulfstream Model GVII–G400 airplane, which is a derivative of the Model GVII–G500 currently approved under Type Certificate No. T00021AT, is a twin-engine business jet, with a maximum seating capacity for 19 passengers, and a maximum take-off weight of 73,500 pounds.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR), § 21.101, Gulfstream must show that the Model GVII–G400 airplane meets the applicable provisions of the regulations listed in Type Certificate No. T00021AT, or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVII–G400 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVII–

G400 airplane must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with 14 CFR 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Gulfstream Model GVII–G400 airplane will incorporate the following novel or unusual design feature:

Seating with inflatable lapbelts.

Discussion

An inflatable lap belt is designed to limit occupant forward excursion in the event of an accident, and thereby reduce the potential for head injury. The inflatable lap belt behaves similarly to an automotive inflatable airbag, but in this case the airbag is integrated into the lap belt and inflates away from the seated occupant. While inflatable airbags are now standard in the automotive industry, the use of an inflatable lap belt is novel for commercial aviation.

Occupants must be protected from head injury, as required by § 25.785, either by eliminating any injurious object within the striking radius of the head, or by installing padding. Traditionally, this has required either a setback of 35 inches from any bulkhead or other rigid interior feature or, where not practical, the installation of specified types of padding. The relative effectiveness of these established means of injury protection was not quantified. With the adoption of Amendment 25–64 to part 25, specifically § 25.562, a new standard was created that quantifies required head-injury protection.

Each seat-type design approved for crew or passenger occupancy during takeoff and landing, as required by § 25.562, must successfully complete dynamic tests or be demonstrated by rational analysis based on dynamic tests of a similar type seat. In particular, the regulations require that persons not suffer serious head injury under the conditions specified in the tests, and that protection must be provided, or the seat be designed, so that head impact does not exceed a (head injury criteria) HIC value of 1,000 units. While the test conditions described for HIC are detailed and specific, it is the intent of the requirement that an adequate level of head-injury protection be provided for passengers in a severe crash.

Because §§ 25.562 and 25.785 and associated guidance do not adequately address seats with inflatable lap belts, the FAA recognizes that appropriate pass/fail criteria need to be developed that fully address the safety concerns specific to occupants of these seats.

The inflatable lap belt has two potential advantages over other means of head-impact protection. First, it can provide significantly greater protection than would be expected with energy-absorbing pads, and second, it can provide essentially equivalent protection for occupants of all stature. These are significant advantages from a safety standpoint because such devices will likely provide a level of safety that exceeds the minimum standards of part 25. Conversely, inflatable lap belts in general are active systems and must be relied upon to activate properly when needed, as opposed to an energy-absorbing pad or upper torso restraint that is passive and always available. Therefore, the potential advantages must be balanced against this and other potential disadvantages to develop standards for this design feature.

The FAA has considered the installation of inflatable lap belts to have two primary safety concerns: First, that they perform properly under foreseeable operating conditions; and second, that they do not perform in a manner or at such times as would constitute a hazard to the airplane or occupants. This latter point has the potential to be the more rigorous of the requirements, owing to the active nature of the system.

The inflatable lap belt will rely on electronic sensors for signaling, and will employ an automatic inflation mechanism for activation, so that it is available when needed. These same devices could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of such deployment must be considered in establishing the reliability of the system. An applicant must substantiate that the effects of an inadvertent deployment in flight are either not a hazard to the airplane, or that such deployment is an extremely improbable occurrence (less than 10^{-9} per flight hour). The effect of an inadvertent deployment on a passenger or crewmember that might be positioned close to the inflatable lap belt should also be considered. The person could be either standing or sitting. A minimum reliability level will have to be established for this case, depending upon the consequences, even if the effect on the airplane is negligible.

Because the inflatable lap belt is essentially a single-use device, it could potentially deploy under crash conditions that are not sufficiently severe as to require head-injury protection from the inflatable lap belt. And because an actual crash is frequently composed of a series of impacts before the airplane comes to rest, this could render the inflatable lap belt useless if a larger impact follows the initial impact. This situation does not exist with energy-absorbing pads or upper-torso restraints, which tend to provide continuous protection regardless of severity or number of impacts in a crash event. Therefore, the inflatable lap-belt installation should be such that the inflatable lap belt will provide protection when it is required, by not expending its protection during a less-severe impact. Also, it is possible to have several large impact events during the course of a crash, but there will be no requirement for the inflatable lap belt to provide protection for multiple impacts. An acceptable method to show an inflatable lap belt deploys at an appropriate time is to conduct threshold testing to demonstrate the device trigger G-level is high enough to prevent false activations and low enough to deploy the airbag in time to protect the occupant. A threshold pulse that is scaled down from the required 16g, 90 ms triangular pulse in § 25.562 is used. The FAA considers a suitable trigger force and time to fire range of 7.5g with 1.5 m/s at 42 ms and 9.3g with 2.4 m/s at 52 ms to be acceptable. FAA TSO–C127c, Appendix 1 provides additional information on sensor-driven restraint systems where it modifies AS8049C by adding subsection 5.3.1.5.

Since each occupant's restraint system provides protection for that occupant only, the installation must address seats that are unoccupied. It will be necessary for Gulfstream to show that the required protection is provided for each occupant regardless of the number of occupied seats, considering that unoccupied seats may have lap belts that are active.

The inflatable lap belt should be effective for a wide range of occupants. The FAA has historically considered the range from the 5th percentile female to the 95th percentile male as the range of occupants that must be taken into account. In this case, the FAA is proposing consideration of a broader range of occupants due to the nature of the lap-belt installation and its close proximity to the occupant. In a similar vein, these persons could have assumed the brace position for those accidents where an impact is anticipated. Test data indicate that occupants in the brace position do not require supplemental protection, so it would not be necessary to show that the inflatable lap belt will enhance the brace position. However, the inflatable lap belt must not

introduce a hazard when it is deployed into a seated, braced occupant.

Another area of concern is the use of seats so equipped by children, whether lap-held, in approved child safety seats, or occupying the seat directly. Similarly, if the seat is occupied by a pregnant woman, the installation should address such usage, either by demonstrating that it will function properly, or by adding appropriate limitation on usage.

Since the inflatable lap belt will be electrically powered, there is the possibility that the system could fail due to a separation in the fuselage. Since this system is intended as crash/post-crash protection means, failure to deploy due to fuselage separation is not acceptable. As with emergency lighting, the system should function properly if such a separation occurs at any point in the fuselage. As required by § 25.1353(a), operation of the existing aircraft electrical equipment should not adversely impact the function of the inflatable lap belt under all foreseeable conditions.

Because the inflatable lap belt is likely to have a large volume displacement, the inflated bag could potentially impede egress of passengers. However, the lap-belt bag deflates to absorb energy, so it is likely that an inflatable lap belt would be deflated by the time passengers begin to leave their seats. Nonetheless, it is appropriate to specify a time interval after which the inflatable lap belt may not impede rapid egress. The maximum time allowed for an exit to open fully after actuation is 10 seconds, according to § 25.809(b)(2). Therefore, the FAA has established 10 seconds as the time interval that the inflatable lap belt must not impede rapid egress from the seat after it is deployed. In actuality, it is unlikely that a flight attendant would prepare an exit this quickly in an accident severe enough to warrant deployment of the inflatable lap belt. The inflatable lap belt will likely deflate much more quickly than 10 seconds.

Inflatable lap belts must not impede access to, or opening of, exits. The applicant must show compliance with the exit opening and access requirements of §§ 25.809 and 25.813 with representative inflatable lap belts in both the pre- and post-deployed conditions. The evaluation must include review for obstructions in the egress path and any interferences in opening the exit and must consider each unique interior configuration. Additional project specific guidance may be needed if inflatable lap belts are installed at overwing exit rows.

Part I of appendix F to part 25 specifies the flammability requirements for interior materials and components. There is no reference to inflatable restraint systems in appendix F because such devices did not exist at the time the flammability requirements were written. The existing requirements are based on both material types, as well as use, and have been specified in light of the state-of-the-art of materials available to perform a given function. In the absence of a specific reference, the default requirement would be for the type of material used to construct the inflatable restraint, which is a fabric in this case. However, in writing a special condition, the FAA must also consider the use of the material, and whether the default requirement is appropriate. In this case, the specialized function of the inflatable restraint means that highly specialized materials are needed. The standard normally applied to fabrics is a 12-second vertical ignition test. However, materials that meet this standard do not perform adequately as inflatable restraints. Since the safety benefit of the inflatable restraint is very significant, the flammability standard appropriate for these devices should not screen out suitable materials, thereby effectively eliminating use of inflatable restraints. The FAA needs to establish a balance between the safety benefit of the inflatable restraint, and its flammability performance. At this time, the 2.5-inch per minute horizontal test as defined in 14 CFR part 25, appendix F, part I, paragraph (b)(5) is considered to provide that balance. As the technology in materials progresses (which is expected), the FAA may change this standard in subsequent special conditions to account for improved materials.

The potential for an inadvertent deployment could be increased as a result of conditions in service. The installation must take into account wear and tear so that the likelihood of an inadvertent deployment is not increased to an unacceptable level. In this context, an appropriate inspection interval and self-test capability are considered necessary. In addition, outside influences such as lightning and high intensity radiated fields (HIRF) may also contribute to or cause inadvertent deployment. Existing regulations regarding lightning, § 25.1316, and high-intensity radiated fields (HIRF), § 25.1317 for the GVII–G400 aircraft are applicable. It must be verified that electromagnetic interference present, under foreseeable operating conditions, will not affect the function of the inflatable lap belt or cause inadvertent deployment. Finally, the inflatable lap belt installation should be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of the pyrotechnic squib.

Note that the special conditions are applicable to the inflatable lap-belt system as installed. The special conditions are not an installation approval. Therefore, while the special conditions relate to each such system installed, the overall installation approval is separate, and must consider the combined effects of all such systems installed.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream Model GVII–G400 airplane. Should Gulfstream apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one airplane model. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

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

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Gulfstream Model GVII–G400 airplanes:

1. The inflatable lap belt must deploy and provide protection under crash conditions where it is necessary to prevent serious head injury. The means of protection must take into consideration a range of stature from a two-year-old child to a 95th percentile male. The inflatable lap belt must provide a consistent approach to energy absorption throughout that range of occupants. In addition, the following situations must be considered:

a. The seated occupant is holding an infant.

b. The seated occupant is a child in a child-restraint device.

c. The seated occupant is a pregnant woman.

2. The inflatable lap belt must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly, considering that unoccupied seats may have an active airbag system in the lap belt.

3. The design must prevent the inflatable lap belt from being either incorrectly buckled or incorrectly installed such that the inflatable lap belt would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required injury protection.

4. The inflatable lap belt system must not be susceptible to inadvertent deployment as a result of wear and tear, or inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings) likely to be experienced in service.

5. Deployment of the inflatable lap belt must not injure the seated occupant, including injuries that would impede rapid evacuation. This assessment should include an occupant who is in the brace position when it deploys and an occupant whose belt is loosely fastened.

6. It must be shown that inadvertent deployment of the inflatable lap belt, during the most critical part of the flight, will either meet the requirement of § 25.1309(b) or not cause a hazard to the airplane or its occupants.

7. The inflatable lap belt must not impede rapid evacuation of occupants 10 seconds after its deployment.

8. The inflatable lap belt must function properly after loss of normal aircraft electrical power, and after a transverse separation of the fuselage at the most critical location. A separation at the location of the lap belt does not have to be considered.

9. The inflatable lap belt must not release hazardous quantities of gas or particulate matter into the cabin.

10. The inflatable lap belt installation must be protected from the effects of fire such that no hazard to occupants will result.

11. There must be a means for a crewmember to verify the integrity of the inflatable lap belt activation system prior to each flight or it must be demonstrated to reliably operate between inspection intervals.

12. The inflatable material must not have an average burn rate of greater than 2.5 inches/minute when tested using the horizontal flammability test as defined in 14 CFR part 25, appendix F, part I, paragraph (b)(5).

13. The airbag system in the lap belt, once deployed, must not adversely affect the emergency lighting system (*i.e.,* block proximity lights to the extent that the lights no longer meet their intended function).

14. The inflatable lap belt system must be protected from lightning and high-intensity radiated fields (HIRF). The threats to the airplane specified in existing regulations regarding lightning, § 25.1316, and HIRF, § 25.1317, are adopted by reference for the purpose of measuring lightning and HIRF protection.

Issued in Kansas City, Missouri, on July 8, 2024.

Patrick R. Mullen,

Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2024–15266 Filed 7–11–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0467; Project Identifier MCAI–2023–00892–T; Amendment 39–22775; AD 2024–13–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes. This AD was prompted by a report of sparking due to damaged wire insulation in the fueling adapter. This AD requires inspecting the electrical wires attached to the airplane connector located behind the fuel scupper for damage, and all applicable related investigative and corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 16, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 16, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0467; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For service information, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–0467.

FOR FURTHER INFORMATION CONTACT: Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes. The NPRM published in the **Federal Register** on March 21, 2024 (89 FR 20141). The NPRM was prompted by AD CF–2023–55, dated July 18, 2023, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as the MCAI). The MCAI states that during airplane refueling, a spark was seen when the fuel cap chain contacted one of the fuel scupper bolts. An inspection was performed and one of the fourteen bolts that surround the fuel inlet was found touching an electrical wire behind the scupper. Due to vibrations during flight, the bolt damaged the wire insulation and when the bolt was grounded to the airframe a spark was generated.

In the NPRM, the FAA proposed to require inspecting the electrical wires attached to the airplane connector located behind the fuel scupper for damage, and all applicable related investigative and corrective actions. The FAA is issuing this AD to address

damaged wire insulation, which could lead to electrical sparks during refueling and possibly result in a fire.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–0467.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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 reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Bombardier Service Bulletin 605–28–014, dated May 10, 2023; and Bombardier Service Bulletin 650–28–003, dated May 10, 2023. This service information specifies procedures for inspecting the electrical wires attached to the J274 connector (*i.e.,* the airplane connector located behind the fuel scupper) for damage (*i.e.,* core of the electrical wire exposed, or damage such as black soot to the insulation with no core exposure), and applicable related investigative and corrective actions. The related investigative action includes inspecting the fuel scupper for damage (*i.e.,* arcing or pitting marks directly or indirectly induced by the wire chaffed on the scupper bolt and the surrounding area). The corrective actions include repairing any damaged fuel scupper, repairing or replacing any damaged electrical wire, and reinstalling the fuel scupper without a certain attachment bolt. These documents are distinct since they apply to different configurations of the airplane.

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

Costs of Compliance

The FAA estimates that this AD affects 163 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$41,565

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
4 work-hours × $85 per hour = $340 *	** $0	$340

* The FAA has received no definitive data on which to base the cost estimates for the on-condition scupper repair specified in this AD.
** The FAA has received no definitive data on which to base the parts cost for the electrical wire replacement specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–13–01 Bombardier, Inc.: Amendment 39–22775; Docket No. FAA–2024–0467; Project Identifier MCAI–2023–00892–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 16, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model CL–600–2B16 (604 Variant) airplanes, certificated in any category, serial numbers 5775 through 5990 inclusive and 6050 through 6178 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by a report of sparking due to damaged wire insulation in the fueling adapter. The FAA is issuing this AD to address damaged wire insulation. The unsafe condition, if not addressed, could lead to electrical sparks during refueling and possibly result in a fire.

(f) Compliance

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

(g) Inspections

Within 48 months after the effective date of this AD: Inspect the electrical wires attached to the J274 connector for damage, in accordance with Section 2.B of the Accomplishment Instructions of the applicable Bombardier service bulletin referenced in figure 1 to paragraph (g) of this AD.

FIGURE 1 TO PARAGRAPH (g)—APPLICABLE SERVICE BULLETINS

Model	Serial No.	Service bulletin
CL–600–2B16	5775 through 5990 inclusive	Bombardier Service Bulletin 605–28–014, dated May 10, 2023.
CL–600–2B16	6050 through 6178 inclusive	Bombardier Service Bulletin 650–28–003, dated May 10, 2023.

(h) Related Investigative and Corrective Actions

Before further flight after accomplishing paragraph (g) of this AD, do the applicable actions specified in paragraph (h)(1) or (2) of this AD.

(1) If no electrical wire is damaged, do the related investigative and corrective actions specified in and in accordance with Section 2.C of the Accomplishment Instructions of the applicable Bombardier service bulletin referenced in figure 1 to paragraph (g) of this AD.

(2) If any electrical wire is damaged, do the related investigative and corrective actions specified in and in accordance with Section 2.D of the Accomplishment Instructions of the applicable Bombardier service bulletin referenced in figure 1 to paragraph (g) of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bombardier, Inc.'s Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Additional Information

For more information about this AD, contact Steven Dzierzynski, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 605–28–014, dated May 10, 2023.

(ii) Bombardier Service Bulletin 650–28–003, dated May 10, 2023.

(3) For service information, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; phone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *bombardier.com.*

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

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

Issued on June 18, 2024.

James D. Foltz,

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

[FR Doc. 2024–15306 Filed 7–11–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–0998; Project Identifier MCAI–2023–01212–T; Amendment 39–22778; AD 2024–13–04]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by a determination that non-conforming washers may have been installed in production on engine 1 and 3 forward yokes. This AD requires a one-time inspection for non-conforming washers and, depending on findings, related investigative and corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 16, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 16, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0998; or in person at Docket Operations between 9 a.m. and

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

Material Incorporated by Reference:

- For EASA material, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2024–0998.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on April 9, 2024 (89 FR 24748). The NPRM was prompted by AD 2023–0208, dated November 22, 2023 (EASA AD 2023–0208) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that a quality review revealed that nonconforming washers may have been installed in production on engine 1 and 3 forward yokes. This condition, if not addressed, could lead to cracks in the bolts and the engine forward yokes, possibly resulting in loss of a lateral engine.

In the NPRM, the FAA proposed to require a one-time inspection for non-conforming washers and, depending on findings, related investigative and corrective actions, as specified in EASA AD 2023–0208. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–0998.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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 reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Material Under 1 CFR Part 51

EASA AD 2023–0208 specifies procedures for a one-time inspection for non-conforming (non-compliant) double countersink washers on the engine 1 and 3 forward yokes, installing the engine 1 and 3 forward yokes with new attachments, and, depending on findings, related investigative and corrective actions. Related investigative and corrective actions include a special detailed fatigue inspection for cracking of the engine forward yokes and replacement if any cracking is found. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 8 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
8 work-hours × $85 per hour = $680	$16,280	$16,960	$135,680

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
8 work-hours × $85 per hour = $680	$33,170	$33,850

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–13–04 Dassault Aviation: Amendment 39–22778; Docket No. FAA–2024–0998; Project Identifier MCAI–2023–01212–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 16, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2023–0208, dated November 22, 2023 (EASA AD 2023–0208).

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Unsafe Condition

This AD was prompted by a determination that non-conforming washers may have been installed in production on engine 1 and 3 forward yokes. The FAA is issuing this AD to address a condition that could lead to cracks in the bolts and the engine forward yokes. The unsafe condition, if not addressed, could result in loss of a lateral engine.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0208.

(h) Exceptions to EASA AD 2023–0208

(1) Where paragraph (2) of EASA AD 2023–0208 specifies to ''accomplish the corrective actions,'' replace that text with ''accomplish a special detailed fatigue inspection to detect cracking of the engine forward yoke, and replace before further flight if any cracking is found.''

(2) This AD does not adopt the ''Remarks'' section of EASA AD 2023–0208.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Additional Information

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 206–231–3226; email: *tom.rodriguez@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2023–0208, dated November 22, 2023.

(ii) [Reserved]

(3) For EASA AD 2023–0208, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this EASA AD on the EASA website at *ad.easa.europa.eu.*

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

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

Issued on June 24, 2024.

James D. Foltz,

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

[FR Doc. 2024–15305 Filed 7–11–24; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 436

Disclosure Requirements and Prohibitions Concerning Franchising

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') announces revised monetary thresholds for three exemptions from the Franchise Rule. The FTC is required to adjust the size of the monetary thresholds every fourth year based upon changes in the Consumer Price Index for All Urban Consumers (''CPI–U'') published by the Department of Labor.

DATES: This final rule is effective July 12, 2024.

FOR FURTHER INFORMATION CONTACT: Christine M. Todaro, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, phone: 202–326–3711, email: *ctodaro@ftc.gov.*

SUPPLEMENTARY INFORMATION: The FTC's Trade Regulation Rule entitled ''Disclosure Requirements and

Prohibitions Concerning Franchising'' (''Franchise Rule'' or ''Rule'')[1] provides three exemptions based on a monetary threshold: The ''minimum payment exemption,''[2] the ''large franchise investment exemption''[3] and the ''large franchisee exemption.''[4] The Rule requires the Commission to ''adjust the size of the monetary thresholds every fourth year based upon the . . . Consumer Price Index for all urban consumers [CPI–U] published by the Department of Labor.''[5] This requirement, added by the 2007 amendments to the Rule, took effect on July 1, 2007, so that franchisors would have a one-year phase-in period within which to comply with the amended Rule's revised disclosure requirements before the July 1, 2008, final compliance deadline.[6]

As required by the Rule, the Commission previously revised the three monetary thresholds to reflect inflation in the CPI–U in 2012, 2016, and 2020.[7] The Commission bases the exemption monetary thresholds that will take effect on July 12, 2024, on the increase in the CPI–U between 2007 and 2023. During this period, the annual average value of the Consumer Price Index for all urban consumers and all items increased by 46.96%—from an index value of 207.342 to a value of 304.702.[8] Applying the percentage increase to the three monetary thresholds increases the thresholds as follows:

Exemption	2007 Base	Adjusted 2024 threshold
Minimum Payment	$500	[9] $735
Large Franchise Investment	1,000,000	1,469,600
Large Franchisee	5,000,000	7,348,000

Because the calculation of these thresholdsis purely ministerial in nature and implements the Rule's mandatory adjustment mechanism, these adjustments are exempt from the rulemaking procedures specified in section 18 of the FTC Act.[10] In addition, the Commission has determined that notice and comment are unnecessary under the Administrative Procedure Act (''APA'') for the same reason. The Commission, therefore, has omitted notice and comment for ''good cause'' as provided by section 553(b)(B) of the APA.[11] For this reason, the requirements of the Regulatory Flexibility Act also do not apply.[12] Accordingly, the adjusted thresholds will take effect on July 12, 2024. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

List of Subjects for 16 CFR Part 436

Advertising, Business and industry, Franchising, Trade practices.

For the reasons set forth in the preamble, the Federal Trade Commission amends 16 CFR part 436 as follows:

PART 436—DISCLOSURE REQUIREMENTS AND PROHIBITIONS CONCERNING FRANCHISING

■ 1. The authority citation for part 436 continues to read as follows:

Authority: 15 U.S.C. 41–58.

§ 436.8 [Amended]

■ 2. Amend § 436.8 as follows:

■ a. In paragraph (a)(1), remove ''$615'' and, in its place, add ''$735'';

■ b. In paragraph (a)(5)(i), remove both references to ''$1,233,000'' and, in their place, add ''$1,469,600''; and

■ c. In paragraph (a)(5)(ii), remove ''$6,165,000'' and, in its place, add ''$7,348,000.''

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2024–15338 Filed 7–11–24; 8:45 am]

BILLING CODE 6750–01–P

[1] 16 CFR part 436.

[2] 16 CFR 436.8(a)(1).

[3] 16 CFR 436.8(a)(5)(i).

[4] 16 CFR 436.8(a)(5)(ii).

[5] 16 CFR 436.8(b).

[6] 72 FR 15444 (Mar. 30, 2007).

[7] 77 FR 36149 (June 18, 2012); 81 FR 31500 (May 19, 2016); 85 FR 38790 (June 29, 2020).

[8] Bureau of Labor Statistics, Consumer Price Index: Historical Consumer Price Index for All Urban Consumers (CPI–U), available at *https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202402.pdf.*

[9] As in prior adjustments, the Commission has exercised its inherent discretionary authority to round the total for the minimum payment exemption to facilitate compliance and for clarity.

[10] *See* 15 U.S.C. 57a(d)(2)(B); 16 CFR 1.15(b) (providing that non-substantive amendments to trade regulation rules are exempt from the rulemaking procedures of section 18 of the FTC Act).

[11] 5 U.S.C. 553(b)(B) (providing that ''good cause'' exists to forego notice and comment when public comment is unnecessary).

[12] 5 U.S.C. 603 and 604 (no regulatory flexibility analyses required where the APA does not require public comment).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 661

[FHWA Docket No. FHWA–2019–0039]

RIN 2125–AF91

Tribal Transportation Facility Bridge Program

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule amends the existing Tribal Transportation Program Bridge Program, formerly known as the Indian Reservation Road (IRR) Bridge Program, by renaming it the Tribal Transportation Facility Bridge Program (TTFBP) to comply with the changes made in the Moving Ahead for Progress in the 21st Century Act (MAP–21), carried on through the Fixing America's Surface Transportation (FAST) Act, and the recent changes made by the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA). It also removes references to terms such as structurally deficient, functionally obsolete, and sufficiency rating. These updates aligned the TTFBP terminology for bridge conditions with the terminology used for State departments of

transportation (State DOT) in the Federal-aid highway program. This change established consistent terminology for classifying and referring to bridge conditions.

DATES: This final rule is effective August 12, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Garcia, P.E., Federal Lands Highway/Office of Tribal Transportation, *Russell.Garcia@dot.gov,* (703) 404–6223, or Silvio Morales, Office of the Chief Counsel, *Silvio.Morales@dot.gov,* (202) 366–1345, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document, the notice of proposed rulemaking (NPRM), and all comments received may be viewed online through the Federal eRulemaking portal at *www.regulations.gov* using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's website at: *www.federalregister.gov* and the U.S. Government Publishing Office's website at: *www.GovInfo.gov.*

Background

Legal Authority

This regulatory action is necessary to update 23 CFR part 661 to reflect the changes made to the program since the last regulatory update in 2008 (73 FR 15664, Mar. 25, 2008). These changes are largely nomenclature changes to the existing regulation that FHWA has been implementing under 23 U.S.C. 202(d), and do not substantively change the TTFBP. Importantly, this rule aligns the TTFBP terminology for bridge conditions with the terminology used in the Federal-aid highway program for State DOTs. This change establishes a consistent terminology for classifying and referring to bridge conditions.

Discussion of Comments Received to the Notice of Proposed Rulemaking

The FHWA published its NPRM on April 04, 2023, at 88 FR 19571, requesting comments to the proposed amendments. In response to the NPRM, FHWA received comments from the Intertribal Transportation Association (ITA), 1 Tribal consultant, 1 anonymous commenter, and from 12 Tribes: the Cheyenne River Sioux Tribe, Oglala Sioux Tribe, Omaha Tribe, Chickasaw Nation, Forest County Potawatomi Community, Ho Chunk Nation, Pueblo of Jemez, Nez Perce Tribe, Standing Rock Sioux Tribe, Spirit Lake Tribe, Trinidad Rancheria, and the Spirit Lake Tribe. The FHWA considered each of the comments in adopting this final rule.

Most of the comments received addressed several common issues. These issues are addressed and discussed under the appropriate section below. The remaining sections did not receive comments and will be adopted as proposed.

Section-by-Section Discussion

(This discussion references the existing regulation, including prior nomenclature).

1. Who must comply with this regulation? (§ 661.3)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended deleting ''and Tribal Consortiums'' from this section.

The FHWA adopted this recommendation throughout the regulation because the primary applicant is the Tribe.

2. What are the eligible activities for TTFBP funds? (§ 661.15)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended including the installation of scour countermeasures in this section.

While scour countermeasures have always been an eligible activity for TTFBP funds, FHWA adopts the recommendation to add an explicit reference to the installation of scour countermeasures in this section for clarity. Also, FHWA added safety inspection of in-service bridges as part of eligible planning activities and clarified the inspection of new or replacement Tribal Transportation Facility (TTF) bridges is for construction inspection activity.

3. What are the criteria for bridge eligibility? (§ 661.17)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended in § 661.17(a)(2) to add the requirement that the Tribal transportation facility be in the National Tribal Transportation Facility Inventory (NTTFI).

The FHWA does not believe the additional language is necessary because it is covered by the Tribal transportation facility definition in this regulation.

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe also recommended that § 661.17(b)(1) should allow design of a new bridge to begin without the bridge being in the NTTFI, although they did not request changes to the proposed regulatory text. They recommended that as long as the bridge project is on a Tribal Transportation Improvement Plan (TTIP) and is approved by the Tribal Council, it can be added to the NTTFI during design, and the bridge must be classified as a Tribal transportation facility in the NTTFI to be eligible for construction.

The FHWA agrees with this position and notes that nothing in § 661.17(b)(1) would prohibit this interpretation. The FHWA does believe, however, that the new bridge to be designed and constructed must be within a route that is identified in the NTTFI. With respect to newly funded bridges still in the design stage, Tribes should start the process of recording the bridge in the NTTFI and not wait after it is built.

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe also recommended that culverts be added to the new proposed regulations as eligible projects.

The FHWA declines to adopt this proposal but notes that replacing an existing culvert with a culvert that meets the definition of a TTF bridge could be funded under the TTFBP as a new bridge.

Finally, FHWA has also removed references in § 661.17(a)(1) and (b)(2) to the length of the bridge opening and has replaced them with a reference to the definition of TTF bridge to increase clarity.

4. When is a bridge eligible for replacement? (§ 661.19)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe asked if any leftover TTFBP funds at the end of the fiscal year could be used to fund bridges in fair condition.

The FHWA regulation does allow for fair condition bridges needing geometric improvements to be eligible for funding as long as they meet the criteria for bridge eligibility in § 661.17.

5. How will a bridge project be programmed for funding once eligibility has been determined? (§ 661.23)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended that Bureau of Indian Affairs (BIA) owned bridges be a priority for funding and that new

bridges rank third in the ranking criteria after poor condition bridges.

The FHWA recognizes the Tribes' interest in maximizing TTFBP funds for BIA and Tribal TTF bridges and adopted this recommendation. Up to 80 percent of the funding made available for Preliminary Engineering (PE) and construction in any fiscal year is eligible for use on BIA and Tribally owned TTF bridges. The FHWA also adopted the recommendation that new bridge construction be added to the ranking criteria for funding. However, FHWA believes that it is most appropriate to add it as the fourth ranking criteria so as to prioritize projects addressing safety.

The FHWA has made three additional changes to the final rule text to increase clarity. First, we replaced the phrase ''All projects will be programmed for funding'' with the phrase ''All projects will be ranked and prioritized for funding.'' The new language provides consistency with the language in § 661.23(b) and better describes the implementation of the program. Second, we replaced the phrase ''low load capacity bridges based on Operating Rating'' with the phrase ''operating rating for bridges in poor condition with lower operating rating having precedence over higher operating rating''. The new language provides clarity to use the operating rating as a ranking criterion for poor condition bridges with the same condition rating. Finally, we removed the numerical item numbers from the condition rating item names in § 661.23(d)(1). This change will reduce confusion as FHWA transitions from the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges to the Specifications for the National Bridge Inventory.

6. What does a complete application package for Preliminary Engineering consist of and how does the project receive funding? (§ 661.25)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended that county- and State-owned bridges' local match for the TTFBP be at 80 percent, and that the TTFBP can only be the 20 percent local match to other funding. The Tribes stated that county and State projects shall only be eligible for funding given that they meet the requirements of 23 U.S.C. 202(f) and that the obligation of Tribal Transportation Program (TTP) funds for a project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State.

The FHWA recognizes the Tribes' interest in maximizing TTFBP funds for BIA and Tribal TTF bridges. Up to 80 percent of the funding made available for PE and construction in any fiscal year is eligible for use on BIA and Tribally owned TTF bridges. The remaining funding in any fiscal year is made available for PE and construction for use on non-BIA/non-Tribally owned TTF bridges. However, FHWA has removed the minimum 20 percent local funding match requirement for non-BIA/non-Tribally owned TTF bridges because Tribal bridge set aside funds from the Bridge Formula Program (BFP) to carry out 23 U.S.C. 202(d) is 100 percent for all eligible TTF bridges. The statute controls the BFP Tribal bridge set aside funds.

7. What does a complete application package for construction consist of and how does the project receive funding? (§ 661.27)

The Nez Perce Tribe, Pueblo of Jemez, and the ITA support the existing 20 percent match requirement for non-BIA/non-Tribal bridges.

As stated previously, FHWA has removed the minimum 20 percent local funding match for non-BIA/non-Tribally owned TTF bridges because the Tribal bridge set aside funds from the BFP to carry out 23 U.S.C. 202(d) is 100 percent for all eligible TTF bridges. The statute controls the BFP Tribal bridge set aside funds.

8. How does ownership impact project selection? (§ 661.29)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe strongly disagree with removing the phrase ''trust responsibilities'' from this section or any other parts of these regulations stating that the Federal Government has a trust responsibility to Native Americans which derives from Treaties, Executive orders, case law, and Federal legislation.

The FHWA adopts the language as proposed. This section pertains only to priority of project selection and does not discuss the trust responsibility of the Federal Government.

9. What percentage of TTFBP Program funding is available for PE and construction? (§ 661.33)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended to add a sentence at the end of the paragraph indicating ''If construction funding does not use 85 percent of the funding the remaining funding may be used for PE.''

The FHWA recognizes the need for both PE and construction. At various times during the fiscal year, FHWA will review the TTFBP funding and may shift funds between PE and construction funds to maximize the number of projects funded and the overall effectiveness of the program.

10. What percentage of TTFBP funding is available for use on BIA and Tribally owned TTF bridges, and non-BIA/non-Tribally owned TTF bridges? (§ 661.35)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended funding all BIA and Tribally owned bridges in the queue first and then BIA and Tribally owned culverts. The Tribes recommended to use the remaining funds to cover the non-BIA and non-Tribally owned bridges.

The FHWA recognizes the Tribes' interest in prioritizing the TTFBP funds for BIA and Tribal TTF bridges. Up to 80 percent of the funding made available for PE and construction in any fiscal year is eligible for use on BIA and Tribally owned TTF bridges. The remaining funding in any fiscal year is made available for PE and construction for use on non-BIA/non-Tribally owned TTF bridges.

11. What are the funding limitations on individual TTFBP project? (§ 661.37)

In the NPRM, FHWA was considering adjusting the funding limits for PE in § 661.37(a) and for PE and construction in § 661.37(b) because the existing funding limits established by the 2008 final rule have not kept pace with increased costs in the last 15 years and adjustment may be necessary to allow increased flexibility. The FHWA specifically requested comments on whether these amounts should be adjusted. Several Tribes made recommendations on the new funding limits: the Standing Rock Sioux Tribe, Oglala Sioux Tribe, Omaha Tribe, Cheyenne River Sioux Tribe, Chickasaw Nation, Forest County Potawatomi Community, Nez Perce Tribe, Ho Chunk Nation, Jemez Pueblo, and Trinidad Rancheria. In addition, comments were received from the ITA, Eastern Region Tribes, LLC, and one anonymous comment.

While the commenters made a number of recommendations, since the publication of the NPRM, FHWA has determined that the statutory language addresses the issue of Federal share for funds set aside from the BFP to carry out 23 U.S.C. 202(d). The Federal share associated with the funds set aside from the BFP to carry out 23 U.S.C. 202(d) is

100 percent. Therefore, this section has been revised to eliminate the funding limits for both PE and construction funds, as well as eliminating the 20 percent local match requirement for non-BIA/non-Tribally owned TTF bridges.

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended a graduated percentage of construction cost to encompass the work needed to reach preliminary engineering (PE) estimated cost. Based on FHWA's experience with the prior TTP Bridge Program, FHWA adopted this recommendation as set forth in the fee scale below:

Estimated Construction Cost:

Up to $1,000,000—Use up to 20% for PE
$1,000,000 to $5,000,000—Use up to 15%–20% for PE
$5,000,000 to $10,000,000—Use up to 10%–15% for PE
Over $10,000,000—Use up to 10% for PE

12. What happens when TTFBP funds cannot be obligated by the end of the fiscal year? (§ 661.45)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended not to return the unobligated TTFBP funds to FHWA during August Redistribution unless the Tribes are able to participate in that program.

The FHWA notes that the only TTFBP funds subject to August Redistribution are the funds from the Highway Trust Fund. Unobligated TTFBP funds from the General Fund will continue to be available until their lapsing period.

13. Can TTFBP funds be spent on Interstate, State Highway, and Toll Road TTF bridges? (§ 661.49)

The Standing Rock Sioux Tribe, Omaha Tribe, Oglala Sioux Tribe, and Cheyenne River Sioux Tribe recommended to add ''as long as they are in the NTTFI and meet the criteria of 23 U.S.C. 202(f).''

The FHWA declines to adopt the additional language for the reasons discussed in § 661.17.

14. What standards should be used for bridge design? (§ 661.53)

The FHWA revised this section to reference the design standards to 25 CFR part 170, subpart D, appendix B to be used for § 661.53(a) and (b).

15. Other

The Native Village of Ouzinkie has poor condition bridges that carry pedestrian and all-terrain vehicle (ATV) traffic and wants these bridges to be addressed, but they did not provide any proposed regulatory recommendations for doing so.

The FHWA's TTFBP only funds TTF bridges that carry highway vehicular traffic.[1] While pedestrian and ATV bridges are not eligible for funding under the TTFBP, FHWA encourages the commenter to pursue other potential surface transportation funding sources available for pedestrian and bicycle projects.[2]

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Rulemaking Policies and Procedures

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, OMB has not reviewed it. This action complies with E.O.s 12866 and 13563 to improve regulation. It is anticipated that the economic impact of this rulemaking would be minimal and that the benefits would outweigh the costs. This rule would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this action on small entities and has determined that this action would not have a significant economic impact on a substantial number of small entities. This final rule amends the existing regulations pursuant to section 1119 of MAP–21, section 1118 of the FAST Act, and sections 11118, 14004, and Division J of the BIL, and would not fundamentally alter the funding available for the replacement or rehabilitation of TTF bridges in poor condition. For these reasons, FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires agencies to prepare a written statement, which includes estimates of anticipated impacts, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year.'' The current threshold after adjustment for inflation is $177 million, using the most current (2022) Implicit Price Deflator for the Gross Domestic Product. In addition, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

The FHWA has analyzed this action in accordance with the principles and criteria contained in E.O. 13132. The FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal Agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this action does not contain collection of information requirements for the purposes of the PRA.

[1] *https://highways.dot.gov/federal-lands/programs-tribal/bridge/tribal-transportation-program-ttp-bridge-program-questions-answers-qas.*

[2] *https://www.fhwa.dot.gov/environment/bicycle_pedestrian/funding/index.cfm.*

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it will not have any significant effect on the quality of the environment and is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under the Council on Environmental Quality regulations and under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. The FHWA does not anticipate any adverse environmental impacts from this rule; no unusual circumstances are present under 23 CFR 771.117(b).

Executive Order 13175 (Tribal Consultation)

Prior to the publication of the NPRM, several appropriate meetings and consultations with the Tribal governments were held in 2022 about the TTFBP and the NPRM. The following meetings with the Tribes were held:

1. Inter Tribal Council of Arizona (ITCA) Virtual Meeting, March 10, 2022.
2. Bureau of Indian Affairs (BIA) Alaska Provider's Conference Virtual Meeting, April 6, 2022.
3. Tribal Transportation Program Coordinating Committee (TTPCC) Meeting in Albuquerque, New Mexico, May 17, 2022.
4. Intertribal Transportation Association (ITA) Virtual Meeting, June 29, 2022.
5. United South and Eastern Tribes (USET) Virtual Meeting, July 19, 2022.
6. TTPCC Meeting in Lewiston, Idaho, August 9, 2022.
7. National Transportation in Indian Country Conference (NTICC) Meeting in Louisville, Kentucky, August 25, 2022.
8. BIA Alaska Provider's Conference in Anchorage, Alaska, November 30, 2022.
9. ITA Meeting in Las Vegas, Nevada, December 7, 2022.

Consistent with E.O. 13175, Consultation and Coordination with Indian Tribal governments, FHWA held four more Tribal consultation meetings during the public comment period. A listening session was held virtually on April 4, 2023. Three in-person meetings were held at three different locations: on April 20, 2023, at the Department of the Interior, National Indian Programs Training Center, Albuquerque, NM; on May 17, 2023, at the Great Northern Jerome Hill Theater, St. Paul, MN; and on May 18, 2023, at the Northwest Region Transportation Symposium, Northern Quest Resort and Casino, Airway Heights, WA. The comments submitted by Tribes through the docket and provided by Tribes at the consultation meetings noted above were considered during the development of this rulemaking.

Executive Order 12898 (Environmental Justice)

The E.O. 12898 requires that each Federal Agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise any environmental justice issues.

Regulation Identification Number

A Regulation Identification Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Rulemaking Summary, 5 U.S.C. 553(b)(4)

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found in the Abstract section of the Department's Unified Agenda entry for this rulemaking at [*https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202310&RIN=2125-AF91*].

List of Subjects in 23 CFR Part 661

Bridges, Highways and roads, Indians.

Issued under authority delegated in 49 CFR 1.81, 1.84, and 1.85.

Shailen P. Bhatt,

Administrator, Federal Highway Administration.

■ In consideration of the foregoing, FHWA revises 23 CFR part 661 as follows:

PART 661—TRIBAL TRANSPORTATION FACILITY BRIDGE PROGRAM (TTFBP)

Sec.

Authority: 23 U.S.C. 120(j) and (k), 202, and 315; 49 CFR 1.81, 1.84, 1.85; 23 CFR part 490, subpart D.

§ 661.1 What is the purpose of this regulation?

The purpose of this regulation is to prescribe policies for project selection and fund allocation procedures for administering the Tribal Transportation Facility Bridge Program (TTFBP).

§ 661.3 Who must comply with this regulation?

Tribes must comply with this regulation in applying for TTFBP funds for planning, design, engineering, pre-construction, construction, and inspection of new or replacement Tribal Transportation Facility (TTF) bridges classified as in poor condition, having low load capacity, or needing geometric improvements.

§ 661.5 What definitions apply to this regulation?

The following definitions apply to this regulation:

Approach roadway means the portion of the highway immediately adjacent to the bridge that affects the geometrics of the bridge, including the horizontal and vertical curves and grades required to connect the existing highway alignment to the new bridge alignment using accepted engineering practices and ensuring that all safety standards are met.

Construction engineering (CE) is the supervision, inspection, and other activities required to ensure the project construction meets the project's approved acceptance specifications, including but not limited to: additional survey staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.

National Bridge Inventory (NBI) means an FHWA database containing bridge information and inspection data for all structures defined as highway bridges located on all public roads, on and off Federal-aid highways, including Tribally owned and federally owned bridges, private bridges that are connected to a public road on both ends of the bridge, temporary bridges, and bridges under construction with portions open to traffic, that are subject to the National Bridge Inspection Standards.

National Tribal Transportation Facility Inventory (NTTFI) means at a minimum, transportation facilities that are eligible for assistance under the TTP as defined in 25 CFR 170.5.

Operating rating means the maximum permissible live load to which the structure may be subjected for the load configuration used in the load rating. Allowing unlimited numbers of vehicles to use the bridge at operating level may shorten the life of the bridge.

Plans, specifications, and estimates (PS&E) means construction drawings, compilation of provisions, and construction project cost estimates for the performance of the prescribed scope of work.

Preliminary engineering (PE) means planning, survey, design, engineering, and preconstruction activities (including archaeological, environmental, and right-of-way activities) related to a specific bridge project.

Public road means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Rehabilitation means major work required to restore the structural integrity of a bridge, as well as work necessary to correct major safety defects. FHWA Bridge Preservation Guide, Spring 2018 Edition.

Replacement means total replacement of an existing bridge with a new facility constructed in the same general traffic corridor. FHWA Bridge Preservation Guide, Spring 2018 Edition.

Tribal Transportation Facility (TTF) means a public highway, road, bridge, trail, transit system, or other approved facility that is located on or provides access to Tribal land and appears on the NTTFI.

TTF bridge means a structure located on the NTTFI, including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of the openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

§ 661.7 What is the TTFBP?

The TTFBP, as established under 23 U.S.C. 202(d), is a nationwide priority program for improving TTF bridges classified as in poor condition, having low load capacity, or needing geometric improvements.

§ 661.9 What is the total funding available for the TTFBP?

The funding source and amount is specified by law, which is subject to change. Due to the complex nature of the funding for the TTFBP, please refer to the applicable statute and applicable FHWA guidance, which can be found on the FHWA's TTFBP website.

§ 661.11 When do TTFBP funds become available?

TTFBP funds are authorized at the start of each fiscal year but are subject to Office of Management and Budget apportionment before they become available to FHWA for further distribution.

§ 661.13 How long are these funds available?

TTFBP funds for each fiscal year are available for obligation for the year authorized plus 3 years (a total of 4 years).

§ 661.15 What are the eligible activities for TTFBP funds?

TTFBP funds can be used:

(a) To carry out any planning (including safety inspection of in-service bridges), design, engineering, preconstruction, construction, and construction inspection of new or replacement TTF bridges;

(b) To replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition;

(c) To implement countermeasures, including scour countermeasures, for TTF bridges classified as scour critical or in poor condition, having a low load capacity, or needing geometric improvements, including multiple-pipe culverts; or

(d) To demolish the old bridge if a bridge is replaced under the TTFBP.

§ 661.17 What are the criteria for bridge eligibility?

(a) For bridge replacement or rehabilitation, TTF bridges are required to meet the following:

(1) Must meet the definition of a TTF bridge;

(2) Be classified as a Tribal transportation facility;

(3) Be classified as in poor condition, have low load capacity, or need highway geometric improvements;

(4) Be recorded in the NBI maintained by FHWA;

(b) For new bridge construction, TTF bridges are required to meet the following:

(1) Be classified as a Tribal transportation facility;

(2) Be a public bridge that meets the definition of a TTF bridge and recorded in the NBI after project completion.

§ 661.19 When is a bridge eligible for replacement?

To be eligible for replacement, a TTF bridge must be in poor condition, have low load capacity, or need highway geometric improvements.

§ 661.21 When is a bridge eligible for rehabilitation?

To be eligible for rehabilitation, a TTF bridge must be in poor or fair condition,

have low load capacity, or need highway geometric improvements.

§ 661.23 How will a bridge project be programmed for funding once eligibility has been determined?

(a) All projects will be ranked and prioritized for funding after a completed application package is received and accepted by FHWA. At that time, the project will be acknowledged as either BIA and Tribally owned, or non-BIA/non-Tribally owned and placed in either a PE or a construction queue.

(b) All projects will be ranked and prioritized based on the following criteria:

(1) Bridge condition with bridges in poor condition having precedence over bridges in fair condition, and bridges in fair condition having precedence over bridges in good condition;

(2) Operating rating for bridges in poor condition with lower operating rating having precedence over higher operating rating;

(3) Bridges on school bus routes;

(4) New bridge construction;

(5) Bypass detour length;

(6) Annual average daily traffic; and

(7) Annual average daily truck traffic.

(c) Queues will carryover from fiscal year to fiscal year as made necessary by the amount of annual funding made available.

(d) TTF bridges will be classified as good, fair, or poor based on the following criteria:

(1) *Good:* When the lowest rating of the 3 NBI items for a bridge (Deck Condition Rating, Superstructure Condition Rating, Substructure Condition Rating) is 7, 8, or 9, the bridge will be classified as good. When the rating of the NBI item for a culvert (Culvert Condition Rating) is 7, 8, or 9, the culvert will be classified as good.

(2) *Fair:* When the lowest rating of the three NBI items for a bridge is 5 or 6, the bridge will be classified as fair. When the rating of the NBI item for a culvert is 5 or 6, the culvert will be classified as fair.

(3) *Poor:* When the lowest rating of the three NBI items for a bridge is 4, 3, 2, 1, or 0, the bridge will be classified as poor. When the rating of the NBI item for a culvert is 4, 3, 2, 1, or 0, the culvert will be classified as poor. A poor condition bridge with a lower condition rating will have precedence over a poor condition bridge with a higher condition rating.

§ 661.25 What does a complete application package for PE consist of and how does the project receive funding?

(a) A complete application package for PE consists of the following:

(1) The certification checklist;

(2) Tribal Transportation Program (TTP) transportation improvement program (TIP);

(3) Project scope of work;

(4) Detailed cost for PE;

(5) NBI data; and

(6) An acknowledgment by the Tribe of the project specific funding requirements and that any excess funds will be returned to FHWA for further distribution.

(b) For non-BIA/non-Tribally owned TTF bridges, the application package must also include a Tribal resolution supporting the project.

(c) Incomplete application packages will be disapproved and returned for revision and resubmission along with an explanation providing the reason for disapproval.

(d) The TTF bridge projects for PE will be placed in the queue and determined as eligible for funding after receipt by FHWA of a complete application package.

(e) Funding for the approved eligible projects on the queues will be made available to the Tribes, under a TTP Program agreement between FHWA and a Tribal government, or the Secretary of the Interior upon availability of program funding at FHWA.

§ 661.27 What does a complete application package for construction consist of and how does the project receive funding?

(a) A complete application package for construction consists of the following:

(1) A copy of the approved PS&E;

(2) The certification checklist;

(3) NBI data;

(4) The TTP TIP;

(5) All environmental and archeological clearances and complete grants of public rights-of-way that must be acquired prior to submittal of the construction application package; and

(6) An acknowledgment by the Tribe of the project specific funding requirements and that any excess funds will be returned to FHWA for further distribution.

(b) For non-BIA/non-Tribally owned TTF bridges, the application package must also include a copy of a letter from the bridge's owner approving the project and its PS&E and a Tribal resolution supporting the project.

(c) Incomplete application packages will be disapproved and returned for revision and resubmission along with an explanation providing the reason for disapproval.

(d) The TTF bridge projects for construction will be placed in the queue and determined as eligible for funding after receipt by FHWA of a complete application package.

(e) Funding for the approved eligible projects in the queues will be made available to the Tribes, under a TTP Program Agreement between FHWA and a Tribal government, or the Secretary of the Interior upon availability of program funding at FHWA.

§ 661.29 How does ownership impact project selection?

(a) Primary consideration will be given to eligible projects on BIA and Tribally owned TTF bridges. A smaller percentage of available funds will be set aside for non-BIA/non-Tribally owned TTF bridges, since States and counties have access to Federal-aid and other funding to design, replace, and rehabilitate their bridges.

(b) The program policy will be to maximize the number of TTF bridges participating in the TTFBP in a given fiscal year regardless of ownership.

§ 661.31 Do TTF bridge projects have to be listed on an approved TTP TIP?

Yes. All TTF bridge projects must be listed on an approved FHWA TTP TIP. TTF bridge projects included in the TTP TIP that are not fiscally constrained may still be included as a list of projects dependent upon the availability of additional resources, also known as an ''illustrative list''.

§ 661.33 What percentage of TTFBP funding is available for PE and construction?

(a) Up to 15 percent of the funding made available in any fiscal year will be eligible for PE. The remaining funding in any fiscal year will be available for construction.

(b) At various times during the fiscal year, FHWA will review the TTFBP funding and may shift funds between PE and construction funds to maximize the number of projects funded and the overall effectiveness of the program.

§ 661.35 What percentage of TTFBP funding is available for use on BIA and Tribally owned TTF bridges, and for non-BIA/non-Tribally owned TTF bridges?

(a) Up to 80 percent of the available funding made available for PE and construction in any fiscal year will be eligible for use on BIA and Tribally owned TTF bridges. The remaining funding in any fiscal year will be made available for PE and construction for use on non-BIA/non-Tribally owned TTF bridges.

(b) At various times during the fiscal year, FHWA will review the projects awaiting funding and may shift funds between BIA and Tribally owned, and non-BIA/non-Tribally owned bridge projects to maximize the number of

projects funded and the overall effectiveness of the program.

§ 661.37 What are the funding limitations on an individual TTF bridge project?

The following funding provisions apply in administration of the TTFBP:

(a) There are no funding limitations on an individual TTF bridge application, but the PE estimated cost will be based on the following fee scale:

Estimated Construction Cost:

Up to $1,000,000—Use up to 20% for PE
$1,000,000 to $5,000,000—Use up to 15%–20% for PE
$5,000,000 to $10,000,000—Use up to 10%–15% for PE
Over $10,000,000—Use up to 10% for PE

(b) Requests for additional funds for PE or construction may be submitted along with proper justification to FHWA for consideration. The request will be considered on a case-by-case basis. There is no guarantee for the approval of the request for additional funds.

§ 661.39 How are project cost overruns funded?

(a) A request for additional TTFBP funds for cost overruns on a specific bridge project must be submitted to Bureau of Indian Affairs Division of Transportation (BIADOT) and FHWA for approval. The written submission must include a justification, an explanation as to why the overrun occurred, and the amount of additional funding required with supporting cost data. If approved by FHWA and BIADOT, the request will be placed at the top of the appropriate queue (with a contract modification request having a higher priority than a request for additional funds for a project award) and funding may be provided if available.

(b) Project cost overruns may also be funded out of the Tribe's regular TTP construction funding.

§ 661.41 After a bridge project has been completed (either PE or construction) what happens with the excess or surplus funding?

Since the funding is project specific, once a bridge design or construction project has been completed under this program, any excess or surplus funding is returned to FHWA for use on additional approved TTF bridge projects.

§ 661.43 Can other sources of funds be used to finance a queued project in advance of receipt of TTFBP funds?

Yes. A Tribe can use other sources of funds, including TTP construction funds, on a project that has been approved for funding and placed on the queue and then be reimbursed when TTFBP funds become available. If TTP construction funds are used for this purpose, the funds must be identified on an FHWA approved TTP TIP prior to their expenditure.

§ 661.45 What happens when TTFBP funds cannot be obligated by the end of the fiscal year?

The TTFBP funds from the Highway Trust Fund (HTF) provided to a project that cannot be obligated by the end of the fiscal year are to be returned to FHWA during August redistribution. The returned funds will be re-allocated to the BIA the following fiscal year after FHWA receives and accepts a formal request for the funds from BIA, which includes a justification for the amounts requested and the reason for the failure of the prior year obligation.

§ 661.47 Can routine bridge maintenance be performed with TTFBP funds?

No. Routine bridge maintenance repairs, *e.g.,* guard rail repair, repair of traffic control devices, striping, cleaning scuppers, deck sweeping, snow and debris removal, etc., are not eligible uses of TTFBP funding. The U.S. Department of the Interior's annual allocation for maintenance as well as TTP construction funds are eligible funding sources for routine bridge maintenance.

§ 661.49 Can TTFBP funds be spent on Interstate, State Highway, County, City, Township, and Toll Road TTF bridges?

Yes. Interstate, State Highway, County, City, Township, and Toll Road TTF bridges are eligible for funding as described in § 661.37(b).

§ 661.51 Can TTFBP funds be used for the approach roadway to a bridge?

Yes, costs associated with approach roadway work, as defined in § 661.5 are eligible. Long approach fills, causeways, connecting roadways, interchanges, ramps, and other extensive earth structures, when constructed beyond an attainable touchdown point, are not eligible uses of TTFBP funds.

§ 661.53 What standards should be used for bridge design?

(a) *New and replacement.* New and replacement structures must meet the current geometric, construction, and structural standards required for the types and volumes of projected traffic on the facility over its design life consistent with 25 CFR part 170, subpart D, appendix B.

(b) *Rehabilitation.* Bridges to be rehabilitated, at a minimum, should conform to the standards referenced in 25 CFR part 170, subpart D, appendix B.

§ 661.55 How are BIA and Tribally owned in-service TTF bridges inspected?

The BIA and Tribally owned in-service TTF bridges are inspected in accordance with 25 CFR 170.513 through 170.514.

§ 661.57 What should be done with a BIA and Tribal bridge in poor condition if the Indian Tribe does not support the project?

The restrictions set forth in 25 CFR 170.114(a)(1) shall apply.

[FR Doc. 2024–14933 Filed 7–11–24; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2024–0378]

RIN 1625–AA08

Special Local Regulation; San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation in the navigable waters of San Francisco Bay for the San Francisco Sail Grand Prix, Season 4 race periods on July 12, 2024, through July 14, 2024. This special local regulation is necessary to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing activities. This rule temporarily prohibits entering, transiting through, anchoring, blocking, or loitering within the event area near the Golden Gate Bridge and Alcatraz Island, unless authorized.

DATES: This rule is effective from noon on July 12, 2024, through 5:30 p.m. on July 14, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0378 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant William K. Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division, telephone 415–399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On February 6, 2024, the Silverback Pacific Company notified the Coast Guard of their intention to conduct the ''Sail Grand Prix, Season 4'' in the San Francisco Bay. Sail Grand Prix (SailGP) is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The 2023–2024 season started June 16, 2023, and the season will conclude with the San Francisco Bay race in July 2024. In response, on May 13, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; San Francisco Bay, San Francisco, CA (89 FR 41368). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this sailing race event. During the comment period that ended June 12, 2024, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because in order to ensure the public and participant's safety we must establish the special local regulation before commencement of the Sail Grand Prix race activities starting July 12, 2024.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Sector San Francisco (COTP) has determined that the potential hazards associated with high-speed sailing vessel participating in the SailGP event create unpredictable maneuverability and have a demonstrated likelihood of capsizing during racing. This regulation will help prevent injuries and property damage that may be caused upon impact by the fast-moving vessels. This temporary special local regulation does not exempt racing vessels from any Federal, State, or local laws or regulations, including Nautical Rules of the Road.

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR 1.05–1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published May 13, 2024. In the NPRM, the effective dates for the special local regulation were stated as July 11, 2024, through July 14, 2024. Since publication of the NPRM, event sponsors have removed the scheduled practice period on July 11, 2024, removing the need to enforce the regulated area on July 11, 2024. Additionally, the size of the regulated area has been adjusted to accommodate vessel traffic around Aquatic Park and Pier 45. The regulatory text of this rule has been amended accordingly from the proposed rule in the NPRM to reflect this change.

This rule establishes a special local regulation associated with the SailGP race event from noon to 5:30 p.m. each day from July 12, 2024, through July 14, 2024. The areas regulated by this special local regulation will be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard will establish an Official Practice Box Area, an Official Race Box Area, and a Spectator Area. The special local regulation will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48′24.3″ N, 122°27′53.5″ W; thence to 37°49′15.6″ N, 122°27′58.1″ W; thence to 37°49′28.9″ N, 122°25′52.1″ W; thence to 37°49′7.5″ N, 122°25′13″ W; thence to 37°48′49.6″ N, 122°25′28.9″ W; thence to 37°48′30.5″ N, 122°26′22.6″ W; thence along the shore to 37°48′26.9″ N, 122°26′50.5″ W and thence to the point of beginning.

Located within this footprint, there will be three separate regulated areas: Zone ''A'', the Official Practice Box Areas; Zone ''B'', the Official Race Box Area; and Zone ''C'', the Spectator Area.

Zone ''A'', the Official Practice Box Area, will be marked by colored visual markers. The position of these markers will be specified via Broadcast Notice to Mariners at least seven days prior to the event. Zone ''A'' will be used by the race and support vessels during the official practice period on July 12, 2024. Zone ''A'', the Official Practice Box Area, will be enforced during the official practice from noon to 5:30 p.m. on July 12, 2024, or as announced via Broadcast Notice to Mariners. Excluding the public from entering Zone ''A'' is necessary to provide protection from the operation of the high-speed sailing vessels within the area.

Zone ''B'', the Official Race Box Area, will be marked by 12 or more colored visual markers. The position of these markers will be confirmed via Broadcast Notice to Mariners at least three days prior to the event. Only designated Sail Grand Prix race, support, and VIP vessels will be permitted to enter Zone ''B''. Zone ''B'', the Official Race Box Area, will be enforced during the official race periods from noon to 5:30 p.m. on July 13, 2024, and from noon to 5:30 p.m. on July 14, 2024. Because of the hazards posed by the sailing competition, excluding non-race vessel traffic from Zone ''B'' is necessary to provide protection from the operation of the high-speed sailing vessels within the area.

Zone ''C'', the Spectator Area, will be within the special local regulation designated above and outside of Zone ''B'', the Official Race Box Area. Zone ''C'' will be defined by latitude and longitude points per Broadcast Notice to Mariners. Zone ''C'' will be managed by marine event sponsor officials. Vessels will be prohibited from anchoring within the confines of Zone ''C.''

The duration of the establishment of the special local regulation is needed to ensure the safety of vessels in these navigable waters during the scheduled practice and race periods. The temporary special local regulation will temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area without permission of the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as

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

This regulatory action determination is based on the size, location, duration, and time of day of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the special local regulation, the effect of this rule will not be significant because local waterway users will be notified in advance via public Broadcast Notice to Mariners to ensure the special local regulation will result in minimum impact. Therefore, mariners will be able to plan and transit outside of the periods of enforcement of the special local regulation. The entities most likely affected are commercial vessels and pleasure craft engaged in recreational activities.

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 received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing for a limited duration. This special local regulation will not have a significant economic impact on a substantial number of small entities for the reasons stated in section V.A above. When the special local regulation is in effect, vessel traffic can pass safely around the regulated area. The maritime public will be advised in advance of this special local regulation via Broadcast Notice to Mariners.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation that will create regulated areas of limited size and cumulative duration of approximately 24 hours across four days. It is categorically excluded from further review under paragraphs [L61] and [L63b] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T11–163 to read as follows:

§ 100.T11–163 Special Local Regulation; Sail Grand Prix 2023 Race Event, San Francisco, CA.

(a) *Regulated area.* The regulations in this section apply to all navigable

waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following latitude and longitude points, beginning at 37°48′24.3″ N, 122°27′53.5″ W; thence to 37°49′15.6″ N, 122°27′58.1″ W; thence to 37°49′28.9″ N, 122°25′52.1″ W; thence to 37°49′7.5″ N, 122°25′13″ W; thence to 37°48′49.6″ N, 122°25′28.9″ W; thence to 37°48′30.5″ N, 122°26′22.6″ W; thence along the shore to 37°48′26.9″ N, 122°26′50.5″ W and thence to the point of beginning.

(b) *Definitions.* As used in this section: (1) *Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the special local regulation.

(2) *Zone* ''*A*'' means the Official Practice Box Area. This zone will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°49′19″ N, 122°27′19″ W; thence to 37°49′28″ N, 122°25′52″ W; thence to 37°48′40.9″ N, 122°25′43.6″ W; thence to 37°49′7.5″ N, 122°25′13″ W and thence to the point of beginning. These coordinates are the current projected position for the Official Practice Box Area and will also be announced via Broadcast Notice to Mariners.

(3) *Zone* ''*B*'' means the Official Race Box Area, which will be marked by 12 or more colored visual markers within the special local regulation area designated in paragraph (a). The position of these markers will be specified via Broadcast Notice to Mariners at least three days prior to the event.

(4) *Zone* ''*C*'' means the Spectator Area, which is within the special local regulation area designated in paragraph (a) of this section and outside of Zone ''B'', the Official Race Box Area. Zone ''C'' will be defined by latitude and longitude points announced via Broadcast Notice to Mariners and will be managed by marine event sponsor officials. Vessels shall not anchor within the confines of Zone ''C.''

(c) *Special Local Regulations.* The following regulations apply between noon and 5:30 p.m. on the Sail Grand Prix official practice and race days. (1) Only support and race vessels will be authorized by the COTP or designated representative to enter Zone ''B'' during the race event. Vessel operators desiring to enter or operate within Zone ''A'' or Zone ''B'' must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone ''A'' on VHF–23A.

(2) Spectator vessels in Zone ''C'' must maneuver as directed by the COTP or a designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful direction issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(3) Spectator vessels in Zone ''C'' must operate at safe speeds, which will create minimum wake.

(4) Vessels with approval from the COTP or designated representative to transit through the associated event zones shall maintain headway and not loiter or anchor within the confines of the regulated area.

(5) Rafting and anchoring of vessels is prohibited within the regulated area.

(d) *Enforcement periods.* This special local regulation will be enforced for the official practices and race events from noon to 5:30 p.m. each day from July 12, 2024, through July 14, 2024. At least 24 hours in advance of the official race practice and race events commencing on July 12, 2024, the COTP will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners and in writing via a Coast Guard Boating Public Safety Notice.

Dated: July 2, 2024.

Jordan M. Baldueza,

Captain, U.S. Coast Guard, Captain of the Port, Sector San Francisco.

[FR Doc. 2024–15236 Filed 7–11–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0565]

Safety Zones; Annual Fireworks Displays Within the Captain of the Port, Puget Sound Area of Responsibility—Dyes Inlet

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone near Dyes Inlet, WA for an annual firework display in the Captain of the Port, Sector Puget Sound area of responsibility on July 26, 2024, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event near Dyes Inlet, WA. No vessel operator may enter, transit, moor, or anchor within the safety zone, except for vessels authorized by the Captain of the Port, Sector Puget Sound or a Designated Representative.

DATES: The regulations in 33 CFR 165.1332 will be enforced for the for the Whaling Days regulated area listed in the Table to § 165.1332 from 9 until 11 p.m. on July 26, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LTJG Kaylee Lord at 206–217–6045, or email Sector Puget Sound Waterways Management at *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 165.1332 for the Dyes Inlet regulated area from 9 until 11 p.m. on July 26, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District, § 165.1332, specifies the location of the regulated area for the Whaling Days event in Dyes Inlet, WA. The special requirements listed in 33 CFR 165.1332(b) apply to the activation and enforcement of the safety zone. During the enforcement periods, as reflected in § 165.1332(c), no vessel operator may enter, transit, moor, or anchor within the safety zone, except for vessels authorized by the Captain of the Port, Sector Puget Sound or Designated Representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via marine information broadcasts and Local Notice to Mariners. If the Safety Zone is canceled earlier than listed in this regulation, notification will be provided via Local Notice to Mariners and marine information broadcasts.

Dated: July 5, 2024.

Mark A. McDonnell,

Captain, U.S. Coast Guard, Captain of the Port Sector Puget Sound.

[FR Doc. 2024–15322 Filed 7–11–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0571]

RIN 1625–AA00

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

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain navigable waters of the Corpus Christi Ship Channel. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the removal of pipeline from the floor of the Corpus Christi Ship Channel near mile markers 55 and 56. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Corpus Christi, or a designated representative.

DATES: This rule is effective without actual notice from July 12, 2024, through July 30, 2024. For the purposes of enforcement, actual notice will be used from July 6, 2024, until July 12, 2024. It will be subject to enforcement each day it is in effect, between the hours of 8 p.m. of one day to 6 a.m. of the next day.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0571 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *Anthony.M.Garofalo@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This rule is intended to protect personnel, vessels, and the marine environment from potential hazards associated with removal of the pipelines. Removal of the pipelines has begun, and it would be contrary to the public interest to delay the effective date of the rule to provide notice of a proposal to create these safety zones, consider comments received, and publish a final rule.

In addition, the Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register** because the safety zone must be in effect less than 30 days from now to serve its purpose and it would be contrary to the public interest to delay its effective date now that the hazardous activities have begun.

III. Legal Authority and Need for Rule

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

IV. Discussion of the Rule

This rule is subject to overnight enforcement, starting from 8 p.m. of the first day, to 6 a.m., of the next day, each and every day it is in effect. No vessel or person will be permitted to enter the temporary safety zones during the period in which the rule is subject to enforcement without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 1–800–874–2143. The Coast Guard will issue Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone covers less than 0.5 square mile area of the Corpus Christi Ship Channel in Texas. The temporary safety zone will be subject to enforcement for a period of nine consecutive hours, each day of the month of July. The rule does not completely prohibit vessel traffic within the waterway, and it allows mariners to request permission to enter the zones.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, does not apply to rules not subject to notice and comment. As the Coast Guard has, for good cause, waived notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility Act's provisions do not apply here.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f) and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a temporary safety zone for navigable waters in the Corpus Christi Bay. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by pipeline removal activities that may include deployment of heavy equipment which will obstruct vessel traffic, continuous diver's operations, and various other activities which create underwater hazards while people are working. It is categorically excluded from further review under paragraph L60(a), in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0571 to read as follows:

§ 165.T08–0571 Safety Zone; Corpus Christi Ship Channel, Corpus Christi, TX.

(a) *Location.* The safety zone will be within the following area: All navigable waters of the Corpus Christi Ship Channel, from the surface to bottom, encompassed by a line connecting the following points beginning at Point 1: 27°48′47.41″ N, 97°16′49.55″ W, thence to Point 2: 27°48′46.55″ N, 97°16′54.8″ W, thence to Point 3: 27°48′28.48″ N, 97°16′58.94″ W, thence to Point 4: 27°48′28.04″ N, 97°16′51.42″ W. These coordinates are based on World Geodetic System (WGS) 84.

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

(c) *Enforcement period.* This section will be subject to enforcement from 8 p.m. to 6 a.m. of the next day, on each day, from July 6, 2024, through July 30, 2024.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into these temporary safety zones is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. They may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 1–800–874–2143.

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

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

Dated: July 6, 2024.

T.H. Bertheau,

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

[FR Doc. 2024–15283 Filed 7–11–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0560]

Safety Zones; Annual Fireworks Displays Within the Captain of the Port, Puget Sound Area of Responsibility—Mercer Island

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone near Mercer Island, WA for an annual fireworks display in the Captain of the Port, Sector Puget Sound area of responsibility on July 13, 2024 and July 14, 2024 to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District identifies the regulated area for this event near Mercer Island, WA. No vessel operator may enter, transit, moor, or anchor within the safety zone, except for vessels authorized by the Captain of the Port, Sector Puget Sound or a Designated Representative.

DATES: The regulations in 33 CFR 165.1332 for the Mercer Island, WA location will be enforced from 9 p.m. on July 13, 2024, until 1 a.m. on July 14, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LTJG Kaylee Lord at 206–217–6045, or email Sector Puget Sound

Waterways Management at *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce special local regulations in 33 CFR 165.1332 for the Mercer Island regulated area from 9 p.m. on July 13, 2024 until 1 a.m. on July 14, 2024. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Thirteenth Coast Guard District, § 165.1332, specifies the location of the regulated area for the Mercer Island Celebration which encompasses portions of Lake Washington. The special requirements listed in 33 CFR 165.1332(b) apply to the activation and enforcement of the safety zone. During the enforcement periods, as reflected in § 165.1332(c), no vessel operator may enter, transit, moor, or anchor within the safety zone, except for vessels authorized by the Captain of the Port, Sector Puget Sound or Designated Representative.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via marine information broadcasts and Local Notice to Mariners. If the Safety Zone is canceled earlier than listed in this regulation, notification will be provided via Local Notice to Mariners and marine information broadcasts.

Dated: July 5, 2024.

Mark A. McDonnell,

Captain, U.S. Coast Guard, Captain of the Port Sector Puget Sound.

[FR Doc. 2024–15323 Filed 7–11–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0006]

RIN 1625–AA00

Safety Zone; Captain of the Port Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Captain of the Port Zone from the Mexico/US Border north to the Colorado Locks as defined in 33 CFR 3.40–35. This safety zone is being established to safeguard vessels, ports and waterfront facilities from damage due to Hurricane Beryl. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Corpus Christi, or a designated representative.

DATES: This rule is effective without actual notice from July 12, 2024, through July 15, 2024. For the purposes of enforcement, actual notice will be used from July 6, 2024, until July 12, 2024. It will be subject to enforcement each day.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0006 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Commander Mike Metz, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *Mike.W.Metz@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. This safety zone must be in place by July 6, 2024 to protect personnel, vessels, and the marine environment from potential hazards associated with Hurricane Beryl and there is insufficient time between now and July 6, 2024 to provide notice of a proposal to create these safety zones, consider comments received, and publish a final rule.

In addition, the Coast Guard finds that good cause also exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register** because the safety zone must be in effect less than 30 days from now to serve their purpose and it would be contrary to the public interest to delay its effective date until after the hurricane makes lanfall.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port, Sector Corpus Christi (COTP) has determined weather associated with the arrival of Hurricane Beryl makes this temporary safety zone necessary to prevent vessels from damaging themselves and port infrastructure such as piers, bridges, and facilities, and also help prevent the loss of life associated with vessel casualties.

IV. Discussion of the Rule

This rule is subject to enforcement, starting from 2 p.m. on July 6, 2024, to 12 p.m., through July 15, 2024. No vessel or person will be permitted to enter the temporary safety zones during the period in which the rule is subject to enforcement without obtaining permission from the COTP or a designated representative, who may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 1–800–874–2143. The Coast Guard will issue Broadcast Notices to Mariners, Local Notices to Mariners, and/or Safety Marine Information Broadcasts as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zones. The safety zone covers the entire Captain of the Port Zone from the Mexico/US Border north to the Colorado Locks as defined in 33 CFR 3.40–35. The temporary

safety zones will be subject to enforcement for a period of 24 hours a day, from July 6, 2024, through July 15, 2024. The rule does not completely prohibit vessel traffic within the waterway, and it allows mariners to request permission to enter the zones.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f) and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a temporary safety zone for all navigable waters of the Captain of the Port Zone from the Mexico/US Border north to the Colorado Locks as defined in 33 CFR 3.40–35. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by Hurricane Beryl. It is categorically excluded from further review under paragraph L60(a), in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0006 to read as follows:

§ 165.T08–0006 Safety Zone; Captain of the Port Corpus Christi, TX.

(a) *Location.* The safety zone will be within the following area: all navigable waters of the Captain of the Port Zone from the Mexico/US Border north to the Colorado Locks as defined in 33 CFR 3.40–35

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

(c) *Enforcement period.* This section will be subject to enforcement from 2 p.m. on July 6, 2024 to 12 p.m. on Ju1y 15, 2024.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into these temporary safety zones is prohibited unless

authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. They may be contacted on Channel 16 VHF–FM (156.8 MHz) or by telephone at 1–800–874–2143.

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

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

Dated: July 6, 2024.

T.H. Bertheau,

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

[FR Doc. 2024–15282 Filed 7–11–24; 8:45 am]

BILLING CODE 9110–04–P

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37 CFR Part 210

[Docket No. 2022–5]

Termination Rights, Royalty Distributions, Ownership Transfers, Disputes, and the Music Modernization Act

Correction

In rule document 2024–14609 beginning on page 56586 in the issue of Tuesday, July 9, 2024, make the following correction:

§ 210.29 [Corrected]

■ On page 56614, in § 210.29, in the first column, in the second line, ''August 8, 2024'' should read ''February 9, 2026''.

[FR Doc. C1–2024–14609 Filed 7–11–24; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No: 240708–0187; RTID 0648–XE094]

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Interim Specifications and Management Measures for Pacific Sardine

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

ACTION: Final rule.

SUMMARY: This final rule implements interim annual harvest specifications and management measures for the northern subpopulation of Pacific sardine (hereafter, Pacific sardine), pursuant to an order issued on June 28, 2024, by the U.S. District Court for the Northern District of California in *Oceana, Inc.,* v. *Raimondo, et al.,* No. 5:21–cv–05407–VKD (N.D. Cal., filed July 14, 2021). Specifically, this rule re-instates the annual specifications and management measures that were in place for the 2023–2024 fishing year in whole, until August 1, 2024.

DATES: Effective July 11, 2024 until August 1, 2024.

FOR FURTHER INFORMATION CONTACT: Katie Davis, West Coast Region, NMFS, (323) 372–2126, *Katie.Davis@noaa.gov*.

SUPPLEMENTARY INFORMATION: This final rule re-instates the harvest specifications and management measures that were in place for the 2023–2024 Pacific sardine fishing year (88 FR 41040, June 23, 2023) and that expired on June 30, 2024. These interim harvest specifications and management measures are effective until August 1, 2024, or until the 2024–2025 annual Pacific sardine specifications are effective, whichever date comes first. Proposed 2024–2025 Pacific sardine harvest specifications and management measures were published in the **Federal Register** on June 21, 2024 (89 FR 52005).

This action is necessary to comply with a June 28, 2024 order issued by the U.S. District Court for the Northern District of California (the Court) in *Oceana, Inc.,* v. *Raimondo, et al.,* No. 5:21–cv–05407–VKD (N.D. Cal., filed July 14, 2021), which directs NMFS to implement interim specifications that are no less restrictive than the 2023–2024 specifications, and that take effect upon the expiration of the 2023–2024 specifications (*i.e.,* July 1, 2024) and remain in effect through August 1, 2024, unless NMFS promulgates 2024–2025 annual specifications before that date.

The interim specifications being implemented by this action can be found in table 1, and the additional regulations and management measures are listed below table 1.

TABLE 1—INTERIM HARVEST SPECIFICATIONS, IN METRIC TONS (mt)

Overfishing limit (OFL)	Acceptable biological catch (ABC)	Harvest guideline (HG)	Annual catch limit (ACL)	Annual catch target (ACT)
5,506	3,953	0	3,953	3,600

This interim rule also temporarily re-instates the following management measures for commercial sardine harvest:

(1) The primary directed commercial fishery is closed.

(2) If landings in the live bait fishery reach 2,500 mt of Pacific sardine, then a 1 mt per-trip limit of sardine would apply to the live bait fishery.

(3) An incidental per-landing limit of 20 percent (by weight) of Pacific sardine applies to other coastal pelagic species (CPS) primary directed fisheries (*e.g.,* Pacific mackerel).

(4) If the ACT of 3,600 mt is attained, then a 1 mt per-trip limit of Pacific sardine landings would apply to all CPS fisheries (*i.e.,* 2) and 3) would no longer apply).

(5) An incidental per-landing allowance of 2 mt of Pacific sardine would apply to non-CPS fisheries until the ACL is reached.

All sources of catch, including any exempted fishing permit (EFP) set-asides, the live bait fishery, and other minimal sources of harvest, such as incidental catch in CPS and non-CPS fisheries and minor directed fishing, will be accounted for against the ACT and ACL.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** to announce when catch reaches the management measure limits, as well as any resulting changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will make

announcements through other means available, including emails to fishermen, processors, and State fishery management agencies.

Classification

NMFS has the authority to implement annual harvest specifications and management measures for Pacific sardine under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. 1801 *et seq.*). The NMFS Assistant Administrator has determined that this interim specifications rule is necessary to comply with a Court Order.

The NMFS Assistant Administrator has determined that good cause exists to issue this rule without advance notice in a proposed rule or the opportunity for public comment (*see* 5 U.S.C. 553(b)(3)(B)) and to make the rule effective immediately without providing a 30-day delay after publication (*see* 5 U.S.C. 553(d)(3)). NMFS is obligated to implement these measures immediately to comply with the Court's June 28, 2024, Order, which ''directs NMFS to implement interim specifications effective July 1, 2024 that are no less restrictive than the 2023–2024 specifications.'' To comply with that Order, NMFS must implement this rule at the earliest possible date. NMFS does not have discretion to implement measures that do not comply with the order in substance or timing. Providing prior notice and an opportunity for comment and delaying the effective date of this rule for 30 days after publication is therefore unnecessary and impracticable, and good cause exists to make this interim rule effective immediately.

This final rule is exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

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

Dated: July 9, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2024–15346 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 134
Friday, July 12, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2024–0096]

RIN 3150–AL17

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM FW System, Certificate of Compliance No. 1032, Amendment No. 7

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel regulations by revising the Holtec International HI–STORM Flood/Wind Multi-purpose Canister Storage System listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 7 to Certificate of Compliance No. 1032. Amendment No. 7 revises the certificate of compliance to add a new overpack, add new multi-purpose canisters MPC–44 and MPC–37P, and add new fuel type 10x10J to approved content. Amendment No. 7 also incorporates other technical changes and several editorial changes.

DATES: Submit comments by August 12, 2024. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2024–0096 at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

You can read a plain language description of this proposed rule at *https://www.regulations.gov/docket/NRC-2024-0096.* 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: Caylee Kenny, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7150, email: *Caylee.Kenny@nrc.gov;* and Yen-Ju Chen, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–1018, email: *Yen-Ju.Chen@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0096 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–2024–0096. Address questions about NRC dockets to Dawn Forder, telephone: 301–415–3407, email: *Dawn.Forder@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2024–0096 in your comment submission.

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

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

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on September 25, 2024. However, if the NRC receives any significant adverse comment by August 12, 2024, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

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

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

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

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

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

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

(3) The comment causes the NRC to make a change (other than editorial) to the rule.

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

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the Nuclear Waste Policy Act states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on June 8, 2011 (76 FR 33121), that approved the Holtec International HI–STORM Flood/Wind Multi-purpose Canister Storage System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1032.

IV. Plain Writing

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

V. Availability of Documents

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

Document	ADAMS accession No./web link/**Federal Register** citation
Proposed Certificate of Compliance and Proposed Technical Specifications	
Certificate of Compliance No.1032, Amendment No. 7	ML23030B793.
Certificate of Compliance No. 1032, Amendment 7, Appendix A: Technical Specifications	ML23030B794.
Certificate of Compliance No. 1032, Amendment 7, Appendix B: Approved Contents and Design Features	ML23030B795.
Certificate of Compliance No. 1032, Amendment No. 7, Preliminary Safety Evaluation Report	ML23030B796.
Environmental Documents	
Environmental Assessment for Proposed Rule Entitled, ''Storage of Spent Nuclear Fuel in NRC-Approved Storage Casks at Nuclear Power Reactor Sites,'' dated March 8, 1989.	ML051230231.
''Environmental Assessment and Finding of No Significant Impact for the Final Rule Amending 10 CFR Part 72 License and Certificate of Compliance Terms,'' dated May 3, 2010.	ML100710441.
Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report (NUREG–2157, Volumes 1 and 2), dated September 30, 2014.	ML14198A440 (package).
''Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites'' Final Rule, dated July 18, 1990	55 FR 29181.
Holtec International HI–STORM FW Amendment 7 Request Documents	
Holtec International—HI–STORM FW Amendment 7 Request, dated May 6, 2021	ML21126A266 (package).
Holtec International HI–STORM FW Amendment 7 Request	ML21126A267.
Attachment 1—HI–STORM FW Amendment 7 Summary of Proposed Changes	ML21126A268.
Attachment 2—HI–STORM FW Amendment 7 Certificate of Compliance	ML21126A269.
Attachment 3—HI–STORM FW Amendment 7 Certificate of Compliance, Appendix A	ML21126A270.
Attachment 4—HI–STORM FW Amendment 7 Certificate of Compliance, Appendix B	ML21126A271.
Attachment 6—HI–STORM FW FSAR Proposed Revision 9 Revised Pages (Non-Proprietary)	ML21126A273.
Attachment 29: Affidavit of Kimberly Manzione in Accordance with 10 CFR 2.390	ML21126A297.
HOLTEC International HI–STORM FW Amendment 7 Responses to Requests for Supplemental Information, dated October 15, 2021.	ML21288A521 (package).
Holtec International, HI–STORM FW Amendment 9 Request, dated February 17, 2022	ML22048C221.
Holtec International, HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 1, dated July 11, 2022.	ML22192A215 (package).

Document	ADAMS accession No./web link/**Federal Register** citation
Holtec International, HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 1—Additional Supporting Documents, dated July 13, 2022.	ML22194A954.
HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 2, dated July 29, 2022	ML22210A145 (package).
Holtec International, HI–STORM FW Amendment 7 RAI Responses Part 1 Clarification Call Action Items, dated September 15, 2022.	ML22258A250 (package).
HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 3, dated October 3, 2022	ML22276A281 (package).
HI–STORM FW Amendment 7 RAI 5–2 Response Clarification, dated December 1, 2022	ML22336A132 (package).
Holtec International HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 4, dated January 6, 2023.	ML23006A263 (package).
Holtec International—HI–STORM FW Amendment 7 Responses to Requests for Additional Information Part 5, dated May 8, 2023.	ML23128A302 (package).
Holtec International HI–STORM FW Amendment 7 RAI Responses Part 5 Clarification Call Action Items, dated June 30, 2023.	ML23181A192 (package).
Holtec International, HI–STORM FW Amendment 7 RAI Responses Part 5 Clarification Corrected Attachments 4 and 5, dated July 11, 2023.	ML23192A031 (package).
Holtec International, HI–STORM FW Amendment 7 RAI 3–10 Response Clarification Call Action Items, dated August 15, 2023.	ML23227A248 (package).
HI–STORM FW Amendment 7 RAI Response Clarifications (Part 3), dated November 17, 2023	ML23321A245 (package).
Holtec International, HI–STORM FW Amendment 7 RAI Response Clarifications (Part 4), dated February 16, 2024	ML24047A323 (package).
HI–STORM FW Amendment 7 RAI Response Clarifications (Part 5), dated April 8, 2024	ML24100A027 (package).
Other Documents	
User Need Memo for Rulemaking for the Holtec HI–STORM Flood/Wind Multi-Purpose Canister Storage System, CoC No. 1032, Amendment 7, dated May 17, 2024.	ML23030B792.
''Agreement State Program Policy Statement; Correction,'' dated October 18, 2017	82 FR 48535.
Plain Language in Government Writing, dated June 10, 1998	63 FR 31885.
Storage of Spent Fuel In NRC-Approved Storage Casks at Power Reactor Sites: Final Rule, dated July 18, 1990	55 FR 29181.
List of Approved Spent Fuel Storage Casks: HI–STORM Flood/Wind Addition, dated June 8, 2011	76 FR 33121.

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at *https://www.regulations.gov* under Docket ID NRC–2024–0096. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2024–0096); (2) click the ''Subscribe'' link; and (3) enter an email address and click on the ''Subscribe'' link.

Dated: June 26, 2024.

For the Nuclear Regulatory Commission.

Raymond Furstenau,

Acting Executive Director for Operations.

[FR Doc. 2024–15131 Filed 7–11–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

[BIA–2022–0001; 245A2100DD/AAKC001030/A0A501010.999900]

RIN 1076–AF67

Federal Acknowledgment of American Indian Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Second notice of proposed rulemaking.

SUMMARY: The United States Department of the Interior (Department) seeks input on a proposal to create a conditional, time-limited opportunity for denied petitioners to re-petition for Federal acknowledgment as an Indian Tribe.

DATES:

- *Proposed Regulations:* Please submit your comments by 11:59 p.m. ET on Friday, September 13, 2024.
- *Virtual Meetings:* Consultation sessions with federally recognized Indian Tribes will be held on August 19, 2024 and September 3, 2024. A listening session for present, former, and prospective petitioners will be held on September 5, 2024.
- *Information Collection Requirements:* If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB (see ''Information Collection Requirements'' section below under **ADDRESSES**) by August 12, 2024.

ADDRESSES: All comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. You may submit comments by any of the following methods:

- *Federal rulemaking portal:* Please visit *https://www.regulations.gov.* Enter ''RIN 1076–AF67'' or ''BIA–2022–0001'' in the web page's search box and follow the instructions for sending comments.
- *Email: consultation@bia.gov.* Include ''RIN 1076–AF67'' or ''25 CFR part 83'' in the subject line of the message.
- *Hand Delivery/Courier:* Department of the Interior, Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, Mail Stop 4071 MIB, 1849 C Street NW, Washington, DC 20240.
- *Consultation with Indian Tribes:* The Department will conduct two virtual consultation sessions and will accept oral and written comments. Federally recognized Indian Tribes may register for the August 19, 2024 consultation session at *https://www.zoomgov.com/meeting/register/vJItc-qqqTsiH8cfOkrLr2UUOwkOq199siI.* Federally recognized Indian Tribes may register for the September 3, 2024 consultation session at *https://www.zoomgov.com/meeting/register/vJItduGorjsoHgUodFTHwBMMQNlw9RwluIA.*

• *Listening session for present, former, and prospective petitioners:* The Department will host a listening session for present, former, and prospective petitioners and will accept oral and written comments. Present, former, and prospective petitioners may register for the September 5, 2024 listening session at *https://www.zoomgov.com/meeting/register/vJIscuysqz8tGcSUvtGt7ETrNdXAQJScrXg*.

• *Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals can obtain this document in an alternate format, usable by people with disabilities, at the Office of Federal Acknowledgment, Room 4071, 1849 C Street NW, Washington, DC 20240.

• *Information Collection Requirements:* Written comments and recommendations for the proposed information collection request (ICR) should be sent within 30 days of publication of this document to the Office of Information and Regulatory Affairs (OIRA) through *https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202310-1076-001* or by visiting *https://www.reginfo.gov/public/do/PRAMain* and selecting ''Currently under Review—Open for Public Comments'' and then scrolling down to the ''Department of the Interior'' and selecting OMB control number ''1076–0104.''

FOR FURTHER INFORMATION CONTACT: Oliver Whaley, Director, Office of Regulatory Affairs and Collaborative Action, Office of the Assistant Secretary—Indian Affairs, (202) 738–6065, *comments@bia.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.

SUPPLEMENTARY INFORMATION: Since 1994, the regulations governing the Federal acknowledgment process, located at 25 CFR part 83 (part 83), have included an express prohibition on re-petitioning (ban). When the Department revised the part 83 regulations in 2015 (2015 regulations), the Department decided to retain the ban; however, two Federal district courts held that the Department's stated reasons for doing so, as articulated in the final rule updating the regulations (2015 final rule), were arbitrary and capricious under the Administrative Procedure Act (APA). The courts remanded the ban to the Department for further consideration. After initially proposing to maintain the ban in 2022, the Department is now proposing to create a limited exception to the ban, through implementation of a re-petition authorization process. The Department invites comments on its proposal, as well as the reasoning in support of the proposed re-petition authorization process.

I. Background

A. Federal Acknowledgment Process

Congress granted the Secretary of the Interior, and as delegated to the Assistant Secretary—Indian Affairs (AS–IA), authority to ''have management of all Indian affairs and of all matters arising out of Indian relations.'' [1] This authority includes the authority to implement an administrative process to acknowledge Indian Tribes.[2] As the congressional findings that support the Federally Recognized Indian Tribe List Act of 1994 indicate, Indian Tribes may be recognized ''by the administrative procedures set forth in part 83 of the Code of Federal Regulations.'' [3]

Part 83 codifies the process through which a group may petition the Department for acknowledgment as a federally recognized Indian Tribe. Part 83 requires groups petitioning for Federal acknowledgment to meet seven mandatory criteria, the satisfaction of which has been central to the Federal acknowledgment process since its inception.[4] The Department refers to the seven criteria as the (a) ''Indian Entity Identification'' criterion, (b) ''Community'' criterion, (c) ''Political Authority'' criterion, (d) ''Governing Document'' criterion, (e) ''Descent'' criterion, (f) ''Unique Membership'' criterion, and (g) ''Congressional Termination'' criterion.[5]

B. Ban on Re-Petitioning

First promulgated in 1978 at 25 CFR part 54 (1978 regulations), the Federal acknowledgment regulations were subsequently moved to part 83 [6] and revised in 1994 (1994 regulations).[7] The 1978 regulations were silent on the question of re-petitioning, and since 1994, part 83 has expressly prohibited petitioners that have received a negative final determination from the Department from re-petitioning under part 83.[8] The final rule updating the regulations in 1994 notes that although some commenters had expressed concern that ''undiscovered evidence which might change the outcome of decisions could come to light in the future,'' the Department reasoned that ''there should be an eventual end to the present administrative process.'' [9] Additionally, the Department pointed out that ''petitioners who were denied went through several stages of review with multiple opportunities to develop and submit evidence.'' [10] The Department also explained that ''[t]he changes in the regulations are not so fundamental that they can be expected to result in different outcomes for cases previously decided.'' [11] Finally, the Department observed that ''[d]enied petitioners still have the opportunity to seek legislative recognition if substantial new evidence develops.'' [12]

[1] 25 U.S.C. 2 and 9; 43 U.S.C. 1457.

[2] *See, e.g., Muwekma Ohlone Tribe* v. *Salazar,* 708 F.3d 209, 211 (D.C. Cir. 2013); *James* v. *United States Dep't of Health & Human Servs.,* 824 F.2d 1132, 1137 (D.C. Cir. 1987).

[3] *See* Public Law 103–454, section 103(3) (1994).

[4] 25 CFR 83.11(a) through (g) (2015 version of the criteria); *id.* § 83.7(a) through (g) (1994) (1994 version); *id.* § 54.7(a) through (g) (1978) (1978 version).

[5] 25 CFR 83.5.

[6] 47 FR 13326 (Mar. 30, 1982).

[7] 59 FR 9280 (Feb. 25, 1994).

[8] 25 CFR 83.3(f) (1994); 59 FR 9294.

[9] 59 FR 9291.

[10] 59 FR 9291.

[11] 59 FR 9291.

[12] 59 FR 9291.

In a 2014 notice of proposed rulemaking (2014 proposed rule), the Department proposed giving previously denied petitioners a conditional opportunity to re-petition.[13] The 2014 proposed rule proposed to allow re-petitioning only if:

(i) Any third parties that participated as a party in an administrative reconsideration or Federal Court appeal concerning the petitioner has consented in writing to the re-petitioning; and

(ii) The petitioner proves, by a preponderance of the evidence, that either:

(a) A change from the previous version of the regulations to the current version of the regulations warrants reconsideration of the final determination; or

(b) The ''reasonable likelihood'' standard was misapplied in the final determination.[14]

In the preamble of the 2014 proposed rule, the Department explained that the requirement of third-party consent would ''recognize [ ] the equitable interests of third parties that expended sometimes significant resources to participate in the adjudication [of a final determination in a reconsideration or appeal] and have since developed reliance interests in the outcome of such adjudication.'' [15] The Department did not discuss the extent to which the third-party consent condition might limit the number of re-petitioners.[16]

Similarly, the Department did not specify the extent to which the other conditions listed above—requiring an unsuccessful petitioner to prove that either a change in the regulations or a misapplication of the reasonable likelihood standard warrants reconsideration—might limit the number of re-petitioners. However, as a general matter, the Department noted that ''the changes to the regulations are generally intended to provide uniformity based on previous decisions,'' so the circumstances in which re-petitioning might be ''appropriate'' would be ''limited.'' [17] The proposed rule did not identify any change to the seven mandatory criteria that ''would likely change [any negative] previous final determination[s].'' [18]

Ultimately, in the 2015 final rule updating part 83, the Department expressly retained the ban.[19] In the preamble of the rule, the Department summarized its reasoning as follows and without any additional discussion, the final rule promotes consistency, expressly providing that evidence or methodology that was sufficient to satisfy any particular criterion in a previous positive decision on that criterion will be sufficient to satisfy the criterion for a present petitioner. The Department has petitions pending that have never been reviewed. Allowing for re-petitioning by denied petitioners would be unfair to petitioners who have not yet had a review, and would hinder the goals of increasing efficiency and timeliness by imposing the additional workload associated with re-petitions on the Department, and the Office of Federal Acknowledgment (OFA) in particular. The part 83 process is not currently an avenue for re-petitioning.[20]

C. Remand of the Ban

In 2020, two Federal district courts—one in a case brought by a former petitioner seeking acknowledgement as the Chinook Indian Nation [21] and one in a case brought by a former petitioner seeking acknowledgement as the Burt Lake Band of Ottawa and Chippewa Indians [22]—held that the Department's reasons for implementing the ban, as articulated in the preamble to the 2015 final rule revising part 83, were arbitrary and capricious under the APA. As an initial matter, both courts agreed with the Department that the Department's authority over Indian affairs generally authorized a re-petition ban.[23] Additionally, both courts noted that their review was highly deferential to the agency's decision under applicable tenets of administrative law.[24] As a result, the narrow question left for the courts to decide was whether the Department, in retaining the ban, ''examine[d] the relevant data and articulate[d] a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.' ''

Both courts concluded that the Department had not satisfied this standard. The *Chinook* court held that the Department's reasons were ''illogical, conclusory, and unsupported by the administrative record,'' as well as not ''rationally connect[ed] . . . to the evidence in the record.'' [25] Similarly, the *Burt Lake* court concluded that the Department's reasons were ''neither well-reasoned nor rationally connected to the facts in the record.'' [26] Both courts concluded that, despite the Department's argument that the 2015 revisions to part 83 did not make any substantive changes to the criteria other than those specifically identified, the Department had failed to explain why the Department could permissibly maintain the ban given those changes and others, after having proposed a limited re-petition process in the 2014 proposed rule.[27] The *Chinook* court focused in particular on a provision introduced in the 2015 final rule that sought to promote consistent implementation of the criteria and stated that ''[t]here is no reason why new petitioners should be entitled to this 'consistency' while past petitioners are not.'' [28] The *Burt Lake* court linked reform of the Federal acknowledgment process generally with an ''opportunity to re-petition and to seek to satisfy the new criterion.'' [29]

Neither the *Chinook* nor *Burt Lake* courts struck down the 2015 final rule in whole or in part. Rather, both courts remanded the ban to the Department for further consideration.[30]

D. 2022 Proposed Rule

Pursuant to the courts' orders, on December 18, 2020, the Department announced an intent to reconsider the ban and invited federally recognized Indian Tribes to consult on whether to

[13] 79 FR 30766, 30767 (May 29, 2014).

[14] 25 CFR 83.4(b)(1) (proposed 2014); *see also* 79 FR 30774 (containing the proposed provision).

[15] 79 FR 30767.

[16] *See Burt Lake Band of Ottawa and Chippewa Indians* v. *Bernhardt,* 613 F. Supp. 3d 371, 385 (D.D.C. 2020) (noting that the record ''does not provide statistics to show . . . how many [petitioners] would be able to re-apply under the limited proposed exception''). The Department has since identified eleven denied petitioners that would have been subject to the third-party consent condition under the 2014 proposed rule: Duwamish Indian Tribe, Tolowa Nation, Nipmuc Nation (Hassanamisco Band), Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, Eastern Pequot Indians of Connecticut and Paucatuck Eastern Pequot Indians of Connecticut, Schaghticoke Tribal Nation, Golden Hill Paugussett Tribe, Snohomish Tribe of Indians, Chinook Indian Tribe/Chinook Nation, and Ramapough Mountain Indians, Inc.

[17] 79 FR 30767.

[18] 79 FR 30767.

[19] 25 CFR 83.4(d); *see* 80 FR 37861, 37888–89 (July 1, 2015).

[20] 80 FR 37875.

[21] *Chinook Indian Nation* v. *Bernhardt,* No. 3:17–cv–05668–RBL, 2020 WL 128563 (W.D. Wash. Jan. 10, 2020).

[22] *Burt Lake Band of Ottawa and Chippewa Indians* v. *Bernhardt,* 613 F. Supp. 3d 371 (D.D.C. 2020).

[23] *Chinook,* 2020 WL 128563, at * 6 (stating that ''the Court agrees with DOI that its expansive power over Indian affairs encompasses the re-petition ban'' (citation omitted)); *Burt Lake,* 613 F. Supp. 3d at 378 (stating that ''the regulation [banning re-petitioning] comports with the agency's authority'').

[24] *Chinook,* 2020 WL 128563, at * 7 (citation omitted); *Burt Lake,* 613 F. Supp. 3d at 379 (citation omitted).

[25] *Chinook,* 2020 WL 128563, at * 8.

[26] *Burt Lake,* 613 F. Supp. 3d at 386.

[27] *See Chinook,* 2020 WL 128563, at * 4–5 (identifying five ''notable'' changes in the 2015 version of part 83); *Burt Lake,* 613 F. Supp. 3d at 383–84 (highlighting two changes that the court deemed ''not minor'').

[28] *Chinook,* 2020 WL 128563, at * 8.

[29] *Burt Lake,* 613 F. Supp. 3d at 384.

[30] *Chinook,* 2020 WL 128563, at * 10; *Burt Lake,* 613 F. Supp. 3d at 387.

allow or deny re-petitioning. On February 25, 2021, the Department held a Tribal consultation session. The Department also solicited written comments on the ban through March 31, 2021. On April 27, 2022, the Department published a proposed rule (2022 proposed rule) to retain the ban, albeit based on revised justifications in light of the courts' rejection of the reasoning set forth in the 2015 final rule.[31] The 2022 proposed rule highlighted the following in proposing to retain the ban:

(1) the substantive integrity of the Department's previous, negative determinations;

(2) the due process that has already been afforded to unsuccessful petitioners;

(3) the non-substantive nature of the revisions to part 83 in the 2015 final rule;

(4) the interests of the Department and third parties in finality; and

(5) the inappropriateness of allowing re-petitioning based on new evidence.[32]

Following publication of the 2022 proposed rule, the Department held two Tribal consultation sessions with federally recognized Indian Tribes and a listening session with present, former, and prospective petitioners for Federal acknowledgment. The Department also solicited written comments through July 6, 2022, and received approximately 270 comments from federally recognized Indian Tribes and a wide range of stakeholders, including former and prospective part 83 petitioners, various State and local government representatives, individuals, and others.

After reviewing the written comments, as well as the transcripts of the consultation and listening sessions, the Department engaged in further deliberation of three options: (1) keeping the ban in place; (2) creating a limited avenue for re-petitioning; and (3) creating an open-ended avenue for re-petitioning, with few or no limitations. The Department is now proposing to create a limited exception to the ban, in line with the second option, through implementation of a re-petition authorization process. The Department's proposal reflects a reconsidered policy on re-petitioning for Federal acknowledgment, and the reasoning underlying the proposal differs in some respects from that underlying the 2022 proposed rule, which would have retained the re-petition ban. Even if the reasons for upholding the ban in the 2022 proposed rule were valid, the Department is proposing a revised approach here based on the reconsidered policy. What follows is a summary of the Department's proposal and a discussion of the comments that informed it. The Department invites comments on the proposal, as well as the reasoning in support of it.

II. Summary of This Proposed Rule

A. Re-Petition Authorization Process

This proposed rule would append a new subpart titled ''Subpart D—Re-Petition Authorization Process'' to the end of the current part 83 regulations. The new subpart would apply to ''unsuccessful petitioner[s],'' which would be a new term defined in § 83.1.[33] Pursuant to the new subpart, an unsuccessful petitioner that seeks to re-petition would first have to plausibly allege that the outcome of the previous, negative final determination would change to positive on reconsideration based on one or both of the following: (1) a change in part 83 (from the 1978 or 1994 regulations to the 2015 regulations); and/or (2) new evidence.[34]

This standard, requiring a petitioner to state a plausible claim for re-petitioning based on one of the conditions above, is akin to the standard for surviving a motion to dismiss.[35] Under the standard, a petitioner's allegations regarding changes in part 83 and/or new evidence would have to address the deficiencies that, according to the Department, prevented the petitioner from satisfying all seven mandatory criteria (located at § 83.11(a) through (g) in the 2015 regulations). Otherwise, even if the allegations were taken as true, they would not change the previous, negative outcome and, therefore, would not justify reconsideration. That is, because Federal acknowledgment requires satisfaction of all seven criteria,[36] the petitioner's re-petition request would have to address all of the criteria that the petitioner did not satisfy. For example, if the Department determined in the previous, negative final determination that the petitioner did not satisfy criteria (a) (Indian Entity Identification), (b) (Community), and (c) (Political Authority), then the petitioner would have to plausibly allege that application of the 2015 regulations, consideration of new evidence, or both would address the deficiencies relating to all three criteria, not only one or two.

A decision granting authorization to re-petition (grant of authorization to re-petition) would not be the same as a final agency decision granting Federal acknowledgment. Rather, a decision granting authorization to re-petition would simply permit the petitioner to proceed with a new documented petition through the Federal acknowledgment process.[37] Upon authorization to re-petition, the petitioner would then have to submit a complete documented petition under § 83.21 to request Federal acknowledgment and receive substantive review of the petitioner's claims and evidence.

In the interest of finality (an interest discussed in depth below), any petitioner denied prior to the effective date of the final rule implementing the re-petition authorization process would have to request to re-petition within five years of the effective date of the rule.[38] Any petitioner denied after the effective date of the final rule would have to request to re-petition within five years of the date of issuance of the petitioner's negative final determination.[39] However, the five-year time limit applicable to a petitioner denied after the effective date of the final rule would be tolled during any period of judicial review of the negative final determination.[40] Additionally, any petitioner denied authorization to re-petition under the proposed re-petition authorization process—or denied Federal acknowledgment upon re-petitioning, after receiving authorization to do so—would be prohibited from submitting a new re-petition request based on new evidence,[41] although they could still request to re-petition based on changes to the part 83 regulations in the future.[42]

[31] 87 FR 24908 (Apr. 27, 2022).

[32] 87 FR 24910–16.

[33] 25 CFR 83.1 (proposed 2023) (defining an ''unsuccessful petitioner'' as ''an entity that was denied Federal acknowledgment after petitioning under any version of the acknowledgment regulations at part 54 or part 83 of title 25''). The term ''unsuccessful petitioner'' applies only to those that have received a final agency decision, not to those that have received only a proposed finding or that have withdrawn from the process prior to receiving a final agency decision. For a complete list of unsuccessful petitioners, see Petitions Denied Through 25 CFR part 83 (34 Petitions), Office of Fed. Acknowledgment, *https://www.bia.gov/as-ia/ofa/petitions-resolved/denied* (last visited Sept. 18, 2023) (listing thirty-four unsuccessful petitioners as of September 18, 2023).

[34] 25 CFR 83.48(a) (proposed 2023).

[35] *See Ashcroft* v. *Iqbal,* 556 U.S. 662, 678 (2009) (explaining that, ''[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face' '' (quoting *Bell Atlantic Corp.* v. *Twombly,* 550 U.S. 544, 570 (2007))).

[36] 25 CFR 83.43(a); *id.* § 83.5.

[37] 25 CFR 83.61(a) (proposed 2023).

[38] 25 CFR 83.49(a) (proposed 2023).

[39] 25 CFR 83.49(b) (proposed 2023).

[40] 25 CFR 83.49(b)(1) (proposed 2023).

[41] 25 CFR 83.47(c) (proposed 2023).

[42] 25 CFR 83.48(b) (proposed 2023). This provision would not prevent a petitioner from resubmitting a re-petition request withdrawn prior

In many respects, the Department's processing of a re-petition request would mirror the processing of a group's documented petition, particularly the procedures relating to notice and comment. To initiate the re-petition authorization process, a previously unsuccessful petitioner would have to submit a complete re-petition request to OFA, explaining how the petitioner meets the conditions of §§ 83.47 through 83.49 (summarized in part above).[43] Upon receipt of a request containing all of the documentation required under § 83.50, OFA would publish notice of the request in the **Federal Register** and on the OFA website.[44] Additionally, OFA would provide notice to certain third parties, including specific government officials of the State in which the petitioner is located, federally recognized Indian Tribes that may have an interest in the petitioner's acknowledgment determination, and any third parties that participated as a party in an administrative reconsideration or Federal Court appeal concerning the petitioner's original documented petition.[45] The Department would then allow for comment on the re-petition request and give the petitioner an opportunity to respond to comments received.[46]

After the close of the comment-and-response period, the Department would consider the re-petition request ready for active consideration, and within thirty days of the close of the comment-and-response period, OFA would place the request on a register listing all requests that are ready for active consideration.[47] The order of consideration of re-petition requests would be determined by the date on which OFA places each request on OFA's register.

Pursuant to § 83.23(a)(2), the Department's highest priority would continue to be completing reviews of documented petitions already under review, and those reviews would take precedence over reviews of re-petition requests.[48] Pursuant to this proposed rule, the Department would also prioritize review of documented petitions awaiting review and new documented petitions over review of re-petition requests, at least initially;[49] re-petition requests pending on OFA's register for more than two years would have priority over any subsequently filed documented petitions.[50]

Once AS–IA is ready to begin review of a specific request, OFA would notify the petitioner and third parties accordingly.[51] In making a decision, AS–IA would consider the claims and evidence in the re-petition request and in any comments and responses received.[52] AS–IA may also consider other information,[53] such as documentation contained in the record associated with the petitioner's denied petition and additional explanations and information requested by AS–IA from commenting parties or the petitioner. Any such additional material considered by AS–IA would be added to the record and shared with the petitioner.[54] The petitioner then would have an opportunity to respond to any additional material considered.[55]

AS–IA would issue a decision on a re-petition request within 180 days of the date on which OFA notifies the petitioner that AS–IA has begun review, subject to any suspension period.[56] AS–IA would grant the petitioner authorization to re-petition if AS–IA finds that the petitioner meets the conditions of §§ 83.47 through 83.49.[57] Conversely, AS–IA would deny authorization to re-petition if AS–IA finds that the petitioner has not met the conditions of §§ 83.47 through 83.49.[58] OFA would then provide notice of AS–IA's decision to the petitioner and certain third parties.[59] Additionally, OFA would publish notice of the decision in the **Federal Register** and on the OFA website.[60]

AS–IA's decision would become effective immediately and would not be subject to administrative appeal.[61] A grant of authorization to re-petition would not be final for the Department. Rather, as noted above, it would simply permit the petitioner to proceed through the Federal acknowledgment process with a new documented petition.[62] By contrast, a decision denying a re-petition request (denial of authorization to re-petition) would represent the consummation of the Department's decision-making about the petitioner's recognition status and would be final for the Department and a final agency decision under the APA.[63]

B. Additional, Related Revisions

Consistent with the introduction of a new re-petition authorization process, this proposed rule would insert new definitions for ''re-petition authorization process'' and ''re-petitioning'' in § 83.1, as well as a new definition for ''unsuccessful petitioner.'' This rule also proposes a change to § 83.4(d), the provision that currently prohibits re-petitioning. The change would note a limited exception to the re-petition ban for previously unsuccessful petitioners that meet the conditions of §§ 83.47 through 83.49, as determined by AS–IA in the re-petition authorization process.

This proposed rule would also give any petitioner currently proceeding under the 1994 regulations the choice to proceed instead under the 2015 regulations.[64] In doing so, the rule presents a choice similar to the one given to pending petitioners in the 2015 regulations.[65] Absent the choice, a petitioner subject to the 1994 regulations that wants to proceed under the 2015 regulations would have to await a final determination and then receive authorization to re-petition if the determination is negative. By allowing a petitioner to switch directly to the current regulations, the relevant provision promotes efficiency.

Finally, this proposed rule would clarify the Department's position on the severability of the provisions in the

to receipt of a decision on the request. 25 CFR 83.56 (proposed 2023).

[43] 25 CFR 83.50(a)(2) (proposed 2023).

[44] 25 CFR 83.51(b)(1) (proposed 2023).

[45] 25 CFR 83.51(b)(2) (proposed 2023).

[46] 25 CFR 83.52 (proposed 2023) (stating that publication of notice of the re-petition request will be followed by a 90-day comment period and that, if OFA receives a timely objection and evidence challenging the request, then the petitioner will have 60 days to submit a written response).

[47] 25 CFR 83.52(d) (proposed 2023); *see also* 25 CFR 83.53(a) (proposed 2023) (describing the register of re-petition requests that OFA would maintain and make available on its website).

[48] 25 CFR 83.53(c) (proposed 2023) (stating that ''the Department will prioritize review of documented petitions over review of re-petition requests'').

[49] *See* 25 CFR 83.53(c) (proposed 2023).

[50] *See* 25 CFR 83.53(c) (proposed 2023).

[51] 25 CFR 83.54 (proposed 2023).

[52] 25 CFR 83.55(a) (proposed 2023).

[53] 25 CFR 83.55(b) (proposed 2023).

[54] 25 CFR 83.55(c) (proposed 2023).

[55] 25 CFR 83.55(c) (proposed 2023) (providing the petitioner with a sixty-day opportunity to respond to the additional material).

[56] *See* 25 CFR 83.57 and 83.58 (proposed 2023) (discussing suspension of review). The way that the clock would run during the review of a re-petition request would be similar to the way that it runs during the review of a documented petition. *See, e.g.,* 25 CFR 83.32 (requiring OFA to complete its review under Phase I ''within six months after notifying the petitioner . . . that OFA has begun review of the petition,'' subject to suspension ''any time the Department is waiting for a response or additional information from the petitioner'').

[57] 25 CFR 83.59(b) (proposed 2023).

[58] 25 CFR 83.59(c) (proposed 2023).

[59] 25 CFR 83.60 (proposed 2023).

[60] 25 CFR 83.60 (proposed 2023).

[61] 25 CFR 83.61 (proposed 2023).

[62] 25 CFR 83.61(a) (proposed 2023).

[63] 25 CFR 83.61(b) (proposed 2023).

[64] 25 CFR 83.47(b) (proposed 2023).

[65] *See* 25 CFR 83.7(b) (giving ''each petitioner that . . . has not yet received a final agency decision'' the choice ''to proceed under these revised regulations'' or ''to complete the petitioning process under the previous version of the acknowledgment regulations as published in 25 CFR part 83, revised as of April 1, 1994'').

proposed regulations.[66] Notwithstanding the Department's position that the provisions, taken together, properly balance competing interests (as discussed further below), the Department has considered whether the provisions could stand alone and proposes that they could. Specifically, the Department has considered whether, if one of the conditions on re-petitioning set forth at §§ 83.47 through 83.49 is held to be invalid, the other conditions should remain valid. The Department proposes that they should because each provision could ''function sensibly'' without the others.[67] For example, a change in part 83 could remain a valid basis for a re-petition request under § 83.48(a)(1) even if a court held § 83.48(a)(2), allowing new evidence to be basis for a re-petition request, to be invalid, and vice versa. The Department has also considered whether the provisions describing the processing of a re-petition request, set forth at §§ 83.50 through 83.61, could stand alone and proposes that they could. For example, provisions relating to notice and comment and the order of priority for review could each function independently if other requirements were determined to be invalid.

C. Technical Revisions

Finally, this proposed rule would make technical revisions to the legal authority citation for part 83 because 25 U.S.C. 479a–1 has been renumbered to 25 U.S.C. 5131 and Public Law 103–454 Sec. 103 (Nov. 2, 1994) has been reprinted in the United States Code at 25 U.S.C. 5130 note (Congressional Findings). This proposed rule would also make a technical revision to the mailing address listed in § 83.9.

III. Discussion of the Comments on the 2022 Proposed Rule

As noted above, the Department's proposal to implement a re-petition authorization process is based in part on a review of the comments received on the 2022 proposed rule. The Department received approximately 270 comments, with approximately 235 of those being identical form letters against the ban, submitted on behalf of unique individuals.

Commenters opposing the ban and those supporting it both provided several reasons for their respective positions. Generally, commenters opposing the ban cited fairness to unsuccessful petitioners as a basis for allowing re-petitioning for Federal acknowledgment. Those commentors argued that allowing unsuccessful petitioners to re-petition is warranted given: (1) the 2015 final rule's changes to certain substantive provisions of part 83; (2) any claimed availability of new evidence that is helpful to petitioners; and (3) alleged inconsistencies in the Department's application of the substantive criteria or evidentiary standards in part 83. By contrast, commenters supporting the ban argued that interests in the finality of the Department's previous, negative final determinations supersede any interests in re-petitioning. The Department discusses each of these points, as well as the Department's interest in finality, in turn below.

A. Comments on the 2015 Final Rule's Changes to Part 83

Commenters that opposed the ban and those that supported it largely disagreed about the significance of the 2015 final rule's changes to part 83. Commenters opposing the ban listed several changes that they think could affect the outcomes of the Department's previous, negative final determinations. Two unsuccessful petitioners, for example, highlighted the provision at § 83.10(a)(4), which states that ''[e]vidence or methodology that the Department found sufficient to satisfy any particular criterion in a previous decision will be sufficient to satisfy the criterion for a present petitioner.'' According to those commenters, by expressly requiring consistency with Departmental precedent, that provision could inform the evaluation of a petition on reconsideration.

Commenters opposing the ban also highlighted two other changes: (1) the new evaluation start date of 1900 for criteria (b) (Community) and (c) (Political Authority);[68] and (2) the change in how the Department counts the number of marriages within a petitioner for the purpose of evaluating criterion (b) (Community).[69] One of the commenters stated that although the change in how the Department counts marriages for criterion (b) (Community) ''might well be immaterial,'' unsuccessful petitioners nevertheless should have ''the opportunity to evaluate how a new framework would affect their application.'' Another commenter similarly asserted that the Department's arguments regarding the substantive insignificance of the 2015 revisions as applied to any previously denied petition were ''untestable.''

In contrast with commenters opposing the ban, commenters supporting the ban generally agreed with the Department's position in the 2022 proposed rule that none of the changes in the 2015 regulations would affect the outcome of the Department's previous, negative final determinations. For example, one commenter explained that the fundamental requirement underlying the seven mandatory criteria—demonstration of continuous Tribal existence—remains the same in the 2015 regulations. Another commenter likewise stated that the changes in the 2015 regulations concern process more than substance.

However, some of the commenters that supported the ban nevertheless identified specific changes that, in their view, might affect the outcome of the Department's previous determinations. Those commenters focused in particular on the inclusion of a new provision under criteria (b) (Community) and (c) (Political Authority) stating that evidence of ''[l]and set aside by a State for [a] petitioner, or collective ancestors of the petitioner,'' may be relied on to satisfy those criteria.[70] According to the commenters, the Department would not have adopted that provision and other potentially outcome-determinative provisions unless the Department also kept in place the re-petition ban, to prevent previously unsuccessful petitioners from taking advantage of the changes. The commenters, representing State and local governments in Connecticut and other Connecticut-based communities, argued that the provision banning re-petitioning is not severable from the remainder of the 2015 regulations and that removal of the ban requires annulment, or ''vacatur,'' of the 2015 final rule's changes to part 83.

Response: The 2015 final rule does not indicate that the Department retained the ban because of potentially outcome-determinative changes in the 2015 regulations, and the Department does not agree that a limited exception to the re-petition ban requires vacatur of the 2015 final rule. Instead, in the 2015 final rule, the Department retained the ban based on other considerations. Moreover, in the 2014 proposed rule, as here, the Department had proposed allowing re-petitioning precisely because of the changes in the rule, not despite them.[71]

As explained in the 2022 proposed rule,[72] the Department does not

[66] 25 CFR 83.62 (proposed 2023).

[67] *Belmont Mun. Light Dep't* v. *FERC,* 38 F. 4th 173, 188 (D.C. Cir. 2022) (citation omitted).

[68] 25 CFR 83.11(b) and (c).

[69] 25 CFR 83.11(b)(2)(ii).

[70] 25 CFR 83.11(b)(1)(ix); 25 CFR 83.11(c)(1)(vii).

[71] 79 FR 30767 (stating that ''re-petitioning would be appropriate only in those limited circumstances where changes to the regulations would likely change the previous final determination'').

[72] *See* 87 FR 24911–14.

anticipate that any of the 2015 final rule's changes to part 83 would affect the outcome of the Department's previous, negative final determinations. However, in the interest of fairness to unsuccessful petitioners, the Department is proposing to give those petitioners a narrow path for arguing, on a case-by-case basis, why specific changes warrant reconsideration of their specific final determinations.[73] The Department has not yet determined that any denied petitioner meets that condition and, therefore, would be permitted to re-petition. Nevertheless, this proposed rule is responsive to the *Chinook* court's observation that some of the changes in the 2015 final rule constitute ''significant revisions that could prove dispositive for some re-petitioners.'' [74] Additionally, it is responsive to the *Burt Lake* court's opinion that ''the agency's breezy assurance . . . that nothing has changed'' in the 2015 regulations is an insufficient basis to keep the ban in place.[75] Pursuant to this proposed rule, if an unsuccessful petitioner can plausibly allege that a change in part 83 would, if applied on reconsideration, change the outcome of the previous, negative determination to positive, then it would be proper to permit the petitioner to re-petition.

B. Comments on the Availability of New Evidence

Commenters opposing the ban and those supporting it disagreed about whether new evidence should serve as a basis for allowing re-petitioning. Several commenters opposing the ban argued that unsuccessful petitioners should have the opportunity to re-petition based on new evidence. In furtherance of that argument, some asserted that the new evaluation start date of 1900 in the 2015 regulations might lead indirectly to the discovery of evidence helpful to previously denied petitioners. Under the previous versions of part 83, petitioners had to demonstrate community and political authority ''from historical times until the present,'' with evidence covering a relatively broad range of time.[76] According to the commenters, the shorter evaluation period under the 2015 regulations (beginning in 1900) would allow the petitioners to narrow the scope of their research accordingly, and the allocation of limited resources to a shorter evaluation period might lead to the discovery of new, helpful evidence.

Commenters supporting the ban did not agree that the availability of new evidence should serve as a basis for allowing re-petitioning. The commenters emphasized the extensive due process that previously unsuccessful petitioners already received under the previous versions of part 83, including multiple opportunities to submit new evidence as part of the petitioning process and to challenge the Department's characterization of that evidence both administratively and in Federal court. The commenters also emphasized the ample amount of time that the petitioners had to develop the evidentiary record.

Response: The Department agrees with the commenters supporting the ban that previously unsuccessful petitioners received ample due process, as discussed in the 2022 proposed rule.[77] Furthermore, the Department acknowledges that, in the 2022 proposed rule, the Department posited that the ''claimed availability of new evidence is not a compelling basis to allow re-petitioning.'' [78] Nevertheless, upon further deliberation, the Department proposes that there are good reasons to permit unsuccessful petitioners to request to re-petition based on new evidence.

Many of the denied petitions are decades old, and since the time of their submission and evaluation there have been numerous advancements in technology that might aid petitioners in their research, including user-friendly, electronic databases containing genealogical information. The application of improved technology, particularly in the context of a shorter evaluation period, might lead to the discovery of new evidence, and there is at least some possibility that the new evidence could affect the outcome of a previous, negative final determination.

The Department's proposal would give unsuccessful petitioners a narrow path for arguing, on a case-by-case basis, why specific new evidence warrants reconsideration of their specific final determinations.[79] The Department's proposal, made pursuant to the Department's broad discretion in administering the Federal acknowledgment process, is responsive to commenters' concerns regarding the high-stakes nature of the Federal acknowledgment process, which one commenter described as ''a life-or-death process.'' Given the significant consequences of being granted or denied Federal acknowledgment, the Department proposes that a limited exception to the re-petition ban for unsuccessful petitioners that have new, potentially dispositive evidence is appropriate.

Although it is true that, in the absence of a re-petition authorization process, unsuccessful petitioners could still ''seek legislative recognition if substantial new evidence develops'' (as the Department explained in the 2022 proposed rule),[80] upon further deliberation, the Department proposes that the part 83 process, as conditioned by this rule, should continue to be an option given the Department's familiarity with the petitioner, expertise in evaluating evidence, and management of all Indian affairs, including decisions regarding Federal acknowledgment.[81] Finally, while it is true that ''it [is] difficult to establish defensible limiting principles'' applicable to claims of new evidence given that ''such evidence is not static but could be discovered at any point,'' [82] the Department proposes that the five-year time limit to submit a request for authorization to re-petition under § 83.49 properly balances the petitioners' interest in using improved technology to conduct additional research with legitimate interests in finality, discussed further below.

C. Comments on Alleged Inconsistencies in the Department's Previous, Negative Final Determinations

Numerous commenters that opposed the ban called into question the integrity of the Federal acknowledgment process and the Department's past determinations. Echoing comments that had been submitted in the prior rulemaking, which culminated in the publication of the 2015 final rule, several commenters asserted that the Department had applied the part 83 substantive criteria or evidentiary standards in an inconsistent manner on a petition-by-petition basis. Others stated that the instances in which the Department initially issued a positive determination, only to reverse it and finalize a negative determination at a later stage in the process (such as after an administrative appeal), were indicative of structural flaws or as-applied impropriety in the part 83 process generally.

Commenters supporting the ban generally defended the integrity of the

[73] *See* 25 CFR 83.48(a)(1) (proposed 2023).

[74] *Chinook,* 2020 WL 128563, at *8.

[75] *Burt Lake,* 613 F. Supp. 3d at 384.

[76] 25 CFR 83.7(b) and (c) (1994); *see also* 25 CFR 54.7(b) and (c) (1978).

[77] 87 FR 24911.

[78] 87 FR 24910; *see also* 87 FR 24916.

[79] *See* 25 CFR 83.48(a)(2) (proposed 2023).

[80] 87 FR 24916 (citing 59 FR 9291).

[81] *See* 25 U.S.C. 2.

[82] 87 FR 24916.

Department's previous determinations, with some expressly supporting the Department's position in the 2022 proposed rule that those determinations are ''substantively sound.'' [83] Commenters supporting the ban also focused on the ample due process that previously denied petitioners received, including opportunities to ''make their case'' and challenge their negative final determinations through an administrative or judicial appeal.

Response: The Department maintains the view that its previous determinations are substantively sound. As the Department explained in the 2022 proposed rule, ''each of the Department's 34 negative determinations was based on an exhaustive review of the facts and claims specific to each petitioner and a deliberate application of the criteria, resulting in a well-reasoned, legally defensible outcome.'' [84] Furthermore, notwithstanding various reforms to the Federal acknowledgment process, ''the Department has consistently defended, and courts have consistently upheld, the Department's final determinations on the merits.'' [85]

In light of those considerations, and the due process already provided to unsuccessful petitioners (including the opportunity to seek judicial review and remand of a negative final determination), the Department has determined that mere criticism of a past final determination is not a sufficient or appropriate basis, standing alone, to justify re-petitioning. Instead, as discussed above, an unsuccessful petitioner would have to argue that reconsideration is warranted based on a change in part 83 and/or new evidence,[86] plausibly alleging that application of the change(s) and/or consideration of new evidence on reconsideration would result in the reversal of the previous, negative outcome.

Under this standard, the proposed re-petition authorization process generally would not be an avenue for relitigating the reasoning and analyses underlying the Department's previous, negative final determinations. For example, an unsuccessful petitioner would not be permitted to argue that the Department, in its previous, negative final determination, had misapplied the reasonable likelihood standard in concluding that the evidence before the Department at the time was insufficient to satisfy a given criterion. The petitioner already had the opportunity to raise such a claim in a timely manner during administrative reconsideration or judicial review of its negative determination. However, the petitioner would be permitted to invoke the provision in the 2015 regulations located at § 83.10(a)(4)—requiring consistency with Departmental precedent in the application of the seven mandatory criteria—as a basis for its re-petition request. In doing so, the petitioner could argue that evidence previously deemed insufficient in the negative final determination should now be deemed sufficient in light of more recent precedent finding allegedly analogous evidence to be sufficient.

D. Comments on Interests in the Finality of the Department's Final Determinations

Commenters that opposed the ban and those that supported it both addressed whether third-party and Departmental interests in finality justify the ban on re-petitioning for Federal acknowledgment. The Department discusses each set of interests in turn below.

1. Third-Party Interests in Finality

Commenters opposing the ban did not think that third-party reliance interests were compelling, particularly when balanced against the interests of unsuccessful petitioners in re-petitioning. For example, one commenter, an inter-Tribal organization representing both federally recognized and State recognized Tribes, asserted that the denied petitioners' interests in safeguarding ''[t]he durable identity of generations of a Tribal Petitioner must outweigh any third party interests in triumphing over a tribe's future.'' Other commenters questioned the influence that third parties exert on the Federal acknowledgment process, with one commenter likening their role to that of a ''second regulatory agency.'' Another commenter questioned how third-party interests could serve as a basis for applying the ban to petitioners unopposed by any third party.

In contrast with commenters opposing the ban, commenters supporting the ban argued that their interests in the finality of the Department's previous, negative final determinations supersede any interests in re-petitioning. Several Connecticut-based commenters stated that re-petitioning would disrupt ''settled expectations,'' for example, by reviving uncertainty about previously denied petitioners' land claims in the State. The commenters also expressed concern about actions that might stem from Federal acknowledgment, particularly gaming development, and potentially detrimental impacts on local communities.

One commenter supporting the ban, the Connecticut Office of the Attorney General, emphasized the ''millions of dollars and thousands of hours of staff resources'' that third parties in Connecticut collectively invested in the Federal acknowledgment process, based on the expectation that the Department's final determinations would remain final and that denied petitioners would not have a ''second bite at the apple.'' Other Connecticut-based commenters submitted similar comments, emphasizing the millions of dollars and many years that they spent participating in the Federal acknowledgment process, specifically as interested parties opposing certain part 83 petitioners located in Connecticut.[87] Federally recognized Indian Tribes that supported the ban also highlighted their interests in finality. Like some of the Connecticut-based commenters mentioned above, these Tribal commenters objected to re-petitioning in part because they fear that renewing their opposition to previously unsuccessful petitioners would overburden their resources.

Response: The Department recognizes that third parties often expended considerable time and resources participating in the Federal acknowledgment process and concurs that third parties have significant, legitimate interests in the finality of the Department's final determinations, as discussed in the 2022 proposed rule.[88] That is why the Department is not proposing to give unsuccessful petitioners an open-ended opportunity to re-petition, for whatever reason and in perpetuity, that might ''make[ ] worthless'' third parties' substantial past investment in the Federal acknowledgment process.[89] Indeed, as stated above, a petitioner's disagreement with the Department's evaluation of the petitioner's claims and evidence in a previous, negative final determination would not be a basis for requesting to re-petition. By maintaining the integrity of the Department's past determinations, the Department by extension recognizes the value of third-party investment in the Federal acknowledgment process, specifically the value of third-party

[83] 87 FR 24910–11.

[84] 87 FR 24910.

[85] 87 FR 24910–11 (citations omitted).

[86] 25 CFR 83.48(a) (proposed 2023).

[87] *See, e.g., In re Fed. Acknowledgment of the Hist. E. Pequot Tribe,* 41 IBIA 1 (May 12, 2005); *In re Fed. Acknowledgment of the Schaghticoke Tribal Nation,* 41 IBIA 30 (May 12, 2005).

[88] *See* 87 FR 24914.

[89] *Bowen* v. *Georgetown Univ. Hosp.,* 488 U.S. 204, 220 (1988).

comments and evidence that informed the Department's past determinations.[90]

Although the Department's proposal in 2022 to retain the longstanding, blanket ban on re-petitioning aligns more closely with third-party interests in finality, the approach proposed here seeks to balance those interests with competing, compelling interests in re-petitioning. For example, the re-petition authorization process that the Department proposes to implement would subject prospective re-petitioners to a threshold review. By proposing to limit the types of arguments that unsuccessful petitioners could raise in the threshold review (regulatory changes and new evidence), the Department seeks to minimize the burden on third parties participating in the process and responding to those arguments. Additionally, by proposing to impose a limit on the amount of time that unsuccessful petitioners would have to request to re-petition, the Department seeks to account for third-party interests in finality.

The proposed rule therefore would balance third-party reliance interests with denied petitioners' interests in Federal acknowledgment. The proposed rule also seeks to be more responsive to the *Chinook* court's ''skeptic[ism] that res judicata is applicable in a situation such as this where legal standards changed between the 1994 and 2015 regulations.'' [91] While the Department maintains that the legal standards in the 2015 regulations are not significantly different from those in the previous regulations and do not compel the Department to allow re-petitioning,[92] in the interest of fairness to unsuccessful petitioners, the Department proposes to give those petitioners a narrow path for arguing that specific changes warrant reconsideration of their specific final determinations.

Similarly, while the availability of new evidence does not compel the Department to allow re-petitioning,[93] the Department has the authority to reconsider a prior position if there are good reasons for doing so.[94] Given the possibility that a petitioner can demonstrate through new evidence that it is a continuously existing Indian tribe entitled to a government-to-government relationship with the United States, as well as the significant consequences of being granted or denied Federal acknowledgment (discussed above and in the 2022 proposed rule [95]), the Department proposes that there are good reasons to create a limited exception to the re-petition ban for unsuccessful petitioners that have new, potentially dispositive evidence, notwithstanding valid third-party interests to the contrary. Finally, in response to third-party concerns about actions that might stem from eventual Federal acknowledgment (for example, concerns about environmental and land use impacts on local communities), third parties could avail themselves of any additional due process specific to those actions.[96]

2. Departmental Interests in Finality

Commenters opposing the ban did not think that the Department's interest in finality is a compelling justification for the re-petition ban, especially when weighed against the competing interests of unsuccessful petitioners. For example, in response to the Department's concerns about the significant burdens associated with re-petitioning (as articulated in the 2022 proposed rule [97]), one commenter stated that although ''an agency's workload can, in an ordinary case, help to justify a decision about process[,] . . . this is not an ordinary case.'' Another commenter suggested that the Department could address the increase in workload that would result from permitting re-petitioning by requesting additional resources. Finally, several commenters opposing the ban suggested that re-petitioners could be ''sent to the back of the line,'' behind first-time petitioners in the order of review. That suggestion echoes the *Chinook* and *Burt Lake* courts' observation that if the Department ''was concerned about pending petitions, it would have been simple to give them priority'' over any re-petitions.[98]

Commenters supporting the ban generally agreed with the Department's position in the 2022 proposed rule that the Department has a legitimate interest in finality.[99] The commenters focused in particular on the Department's interest in allocating resources efficiently, arguing that the Department should devote its limited resources to evaluating new and pending petitioners.

Response: The Department maintains its legitimate interests in the finality of final agency determinations, as discussed in the 2022 proposed rule. However, upon further deliberation, the Department proposes an approach that gives greater weight to the compelling interests of unsuccessful petitioners in re-petitioning while still taking steps to conserve and allocate limited agency resources.

Like the 2014 proposed rule, this proposed rule would subject a previously unsuccessful petitioner to a threshold review limiting the types of arguments that the petitioner could raise in its re-petition request. By keeping the focus on (1) the changes in the 2015 regulations and (2) the availability of new evidence—both developments likely to postdate the date of the petitioner's previous, negative final determination—the Department seeks to avoid the overwhelming administrative burdens that would be associated with an open-ended re-petitioning process, including the potential reopening of decades-old administrative records that ''rang[e] in excess of 30,000 pages to over 100,000 pages.'' [100]

Unlike the 2014 proposed rule, this proposed rule would give AS–IA, not the Office of Hearings and Appeals, responsibility over the re-petition authorization process.[101] Although AS–IA's oversight over the process might increase the workload within the Office of the AS–IA, the Department proposes that AS–IA is in the best position to

[90] *See* 59 FR 9283 (stating that ''participation of . . . interested parties is both appropriate and useful'').

[91] *Chinook,* 2020 WL 128563, at *9 (citing *Golden Hill Paugussett Tribe of Indians* v. *Rell,* 463 F. Supp. 2d 192, 199 (D. Conn. 2006)).

[92] *See Chinook,* 2020 WL 128563, at *9 (explaining that ''res judicata does not apply when legal standards governing the issues are 'significantly different' '' (citing *Golden Hill,* 463 F. Supp. 2d at 199)).

[93] *See Vt. Yankee Nuclear Power Corp.* v. *Nat. Res. Def. Council, Inc.,* 435 U.S. 519, 554–55 (1978) (''If . . . litigants might demand rehearings as a matter of law because [of] . . . some new fact discovered, there would be little hope that the administrative process could ever be consummated in an order that would not be subject to reopening.'').

[94] *Env't Def. Fund, Inc.* v. *Costle,* 657 F.2d 275, 289 (D.C. Cir. 1981) (''It is well settled that an agency may alter or reverse its position if the change is supported by a reasoned explanation.'').

[95] 87 FR 24914.

[96] *See, e.g., City of Sherrill* v. *Oneida Indian Nation,* 544 U.S. 197, 220 (2005) (explaining that ''Congress has provided a mechanism for the acquisition of lands for Tribal communities that takes account of the interests of others with stakes in the area's governance and well-being''); 80 FR 37881 (explaining that ''if the newly acknowledged tribe seeks to have land taken into trust and that application is approved, state or local governments may challenge that action under the land-into-trust process (25 CFR part 151), an entirely separate and distinct decision from the Part 83 process'').

[97] 87 FR 24914–16.

[98] *Chinook,* 2020 WL 128563, at *9; *Burt Lake,* 613 F. Supp. 3d at 385 (quoting *Chinook,* 2020 WL 128563, at *9).

[99] *See* 87 FR 24914–16.

[100] Barbara N. Coen, *Tribal Status Decision Making: A Federal Perspective on Acknowledgment,* 37 New Eng. L. Rev. 491, 495 (2003) (citing *Work of the Department of the Interior's Branch of Acknowledgment and Research within the Bureau of Indian Affairs: Hearing Before the S. Comm. on Indian Affs.,* 107th Cong. 2, 19–20 (2002) (statement of Michael R. Smith, Dir., Office of Tribal Servs., U.S. Dep't of the Interior)).

[101] *Compare* 25 CFR 83.50 through 83.62 (proposed 2023), *with* 25 CFR 83.4(b)(2) and (3) (proposed 2014).

review re-petition requests efficiently, given AS–IA's expertise and experience in evaluating part 83 petitioners' claims and evidence. AS–IA's authority over the process would also ensure that the Department ''prioritize[s] review of documented petitions over review of re-petition requests,'' [102] in line with multiple commenters' recommendation to prioritize review of new and pending petitions.

The Department proposes that the re-petition authorization process, limited in scope and implemented in an efficient and fair manner, would be responsive to the concerns underlying the Department's interest in finality (as articulated in the 2022 proposed rule [103]) while still recognizing the compelling interest in re-petitioning, as articulated both in comments and by the *Chinook* and *Burt Lake* courts. The Department invites comments on additional steps that it could take to mitigate the workload associated with the proposed process.

IV. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866, as amended by E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. On October 20, 2023, OIRA determined this proposed rule is significant. This rule would not have an annual effect on the economy of $200 million.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

This rulemaking is necessary to comply with the orders of the *Chinook* and *Burt Lake* courts, both of which remanded the re-petition ban in part 83 to the Department for further consideration. It would affect federally recognized Indian Tribes and a variety of stakeholders in the Federal acknowledgment process, including previously denied part 83 petitioners, State and local governments, current and prospective petitioners, and others. By implementing a limited exception to the re-petition ban, the proposed regulations would benefit unsuccessful petitioners that previously had no avenue to re-petition for Federal acknowledgment. However, it is unclear how many of the petitioners might submit a request to re-petition or how many could meet the conditions set forth at proposed §§ 83.47 through 83.49.

The costs of the proposed re-petition authorization process include the additional workload on the Department that would stem from reviewing requests to re-petition for Federal acknowledgment and preparing decisions granting or denying authorization to re-petition. Implementation of the proposed process also could result in an increase in the number of requests that the Department receives pursuant to the Freedom of Information Act, from federally recognized Indian Tribes and various stakeholders seeking copies of documents associated with part 83 petitions.[104] Furthermore, the process could result in an increase in litigation, particularly given that a denial of authorization to re-petition would be a final agency action under the APA. Additional costs include the time and resources that unsuccessful petitioners would have to spend reviewing this rule and preparing re-petition requests, as well as the time and resources that others invested in the Federal acknowledgment process (including federally recognized Indian Tribes and State and local governments that oppose certain petitions) would have to spend reviewing this rule and commenting on re-petition requests.

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at *https://www.regulations.gov* at Docket ID BIA–2022–0001 or by searching for ''RIN 1076–AF67.''

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) (RFA) requires Federal agencies to prepare a regulatory flexibility analysis for rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500, *et seq.*) to determine whether a regulation would have a significant economic impact on a substantial number of small entities.

The Department does not believe the proposed rule would have a significant economic impact on a substantial number of small entities (including small businesses, not-for-profit organizations, and ''small governmental jurisdictions,'' defined in 5 U.S.C. 601 to include ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand''). The proposed rule would minimize the burden on unsuccessful petitioners (one type of small entity) by narrowing the scope of arguments at issue in the re-petition authorization process. Although petitioners preparing re-petition requests might incur non-hour cost burdens for contracted services, such as anthropologists, attorneys, genealogists, historians, and law clerks, the narrow scope of arguments at issue—focused on changes in part 83 and/or new evidence—would reduce the risk of petitioners incurring excessive costs for contracted services.

Additionally, by limiting the types of arguments that unsuccessful petitioners could raise in the re-petition authorization process, the proposed rule would minimize the economic impacts on small entities that oppose Federal acknowledgment of the petitioners and that would be preparing arguments in rebuttal. Finally, the limit on the amount of time that unsuccessful petitioners would have to request to re-petition would help small entities participating in the Federal acknowledgment process (including small government jurisdictions) plan for the allocation and expenditure of limited resources accordingly. By contrast, an open-ended avenue for re-petitioning, with few or no limitations, would increase uncertainty about those burdens. Additional discussion of the conditional, time-limited opportunity to re-petition proposed here, and the alternatives that the Department considered, is contained in sections I through III of the preamble, above.

The Department certifies that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required by the RFA.

C. Congressional Review Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Congressional Review Act. This proposed rule does

[102] 25 CFR 83.53(c) (proposed 2023).

[103] 87 FR 24914–16.

[104] *See* 87 FR 24915–16 (discussing the potential for a ''marked increase'' in the number of FOIA requests received as a result of the creation of a re-petitioning process).

not affect commercial or business activities of any kind. This rule:

(a) Would not have an annual effect on the economy of $100 million or more;

(b) Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule would not have a monetarily significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under E.O. 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have hosted consultation with federally recognized Indian Tribes before publication of this proposed rule.

- Following publication of the 2022 proposed rule, the Department held two Tribal consultation sessions with federally recognized Indian tribes.
- The Department is hosting an additional consultation session with Tribes as described in the **DATES** and **ADDRESSES** sections of this document.

I. Paperwork Reduction Act

All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB has reviewed and approved the information collection requirements associated with petitions for Federal acknowledgment under 25 CFR part 83 and assigned the OMB control number 1076–0104 to the collection. This proposed rule would revise and supplement 1076–0104 with a new collection associated with changes proposed in this rulemaking. The new reporting and/or recordkeeping requirements identified below require approval by OMB:

- *Title of Collection:* Federal Acknowledgment as an Indian Tribe, 25 CFR part 83.
- *OMB Control Number:* 1076–0104.
- *Form Number:* BIA–8304, BIA–8305, and BIA–8306.
- *Type of Review:* Revision of a currently approved collection.
- *Summary of Revision/Supplement:* Under the Department's proposal to create a conditional, time-limited opportunity for denied petitioners to re-petition for Federal acknowledgment as an Indian Tribe, the Department would require prospective re-petitioners to plausibly allege that the outcome of the previous, negative final determination would change to positive on reconsideration based on one or both of the following: (1) a change in part 83 (from the 1978 or 1994 regulations to the 2015 regulations); and/or (2) new evidence. The information would be collected in the previously unsuccessful petitioners' respective requests to re-petition for Federal acknowledgment. The collection of information would be unique for each petitioner.
- *Respondents/Affected Public:* Groups petitioning for Federal acknowledgment as Indian Tribes and groups seeking to re-petition for Federal acknowledgment.
- *Total Estimated Number of Annual Respondents:* 2 per year, on average.
  - 1 petitioning group.
  - 1 group seeking to re-petition.
- *Total Estimated Number of Annual Responses:* 2 per year, on average.
  - 1,436 hours for 1 petitioning group.
  - 700 hours for 1 group seeking to re-petition.
- *Estimated Completion: Time per Response:* 2,136 hours.
  - 1,436 hours for 1 petitioning group.
  - 700 hours for 1 group seeking to re-petition.
- *Total Estimated Number of Annual Burden Hours:* 2,136 hours.
- *Respondent's Obligation:* Required to Obtain a Benefit.
- *Frequency of Collection:* Once.
- *Total Estimated Annual Nonhour Burden Cost:* $3,150,000.
  - $2,100,000 for contracted services obtained by 1 petitioning group.
  - $1,050,000 for contracted services obtained by 1 group seeking to re-petition.
- *Annual Cost to Federal Government:* $778,801.
  - $628,938 to review 1 petitioning group: (6,000 hours × $90.08 wage for GS–13) plus (666 hours × $132.82 for GS–15 wage).
  - $149,863 to review 1 group seeking to re-petition: (1,500 hours times $90.08 wage for GS–13) plus (111 hours × 132.82 wage for GS–15).

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

1. Whether or not the collection of information is necessary for the proper performance of the functions of the Department, including whether or not the information will have practical utility.

2. The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

3. Ways to enhance the quality, utility, and clarity of the information to be collected.

4. Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

5. Estimated hour burden (excluding all hours for contracted services and hours for customary and usual business practices).

- Estimated burden hours for petitioning group.
- Estimated burden hours for group seeking to re-petition.

6. Estimated non-hour cost burden, for any contracted services, including anthropologists, attorneys, genealogists, historians, law clerks.

○ Estimated cost of contracted services for petitioning group.
○ Estimated cost of contracted services for group seeking to re-petition.
7. Annualized cost to the Federal Government.
8. Percentage of information relating to a petition or re-petition request that would be reported electronically.
9. System of Records Notice (SORN) INTERIOR/BIA–7, Tribal Enrollment Reporting and Payment System.

Send your written comments and suggestions on this information collection to OIRA listed in **ADDRESSES** by the date indicated in **DATES**. Please also send a copy to *consultation@bia.gov* and reference ''OMB Control Number 1076–0104'' in the subject line of your comments. You may also view the ICR at *https://www.reginfo.gov/public/Forward?SearchTarget=PRA&textfield=1076-0104.*

J. National Environmental Policy Act

Under NEPA, categories of Federal actions that normally do not significantly impact the human environment may be categorically excluded from the requirement to prepare an environmental assessment or impact statement. *See,* 40 CFR 1501.4. Under the Department, regulations that are administrative or procedural are categorially excluded from NEPA analysis because they normally do not significantly impact the human environment. *See,* 43 CFR 46.210(i). This rule is administrative and procedural in nature. Consequently, it is categorically excluded from the NEPA requirement to prepare a detailed environmental analysis. Further, the Department also determined that the rule would not involve any of the extraordinary circumstances under a categorical exclusion that would necessitate environmental analysis. *See,* 43 CFR 46.215.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by E.O. 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:
(a) Be logically organized;
(b) Use the active voice to address readers directly;
(c) Use clear language rather than jargon;
(d) Be divided into short sections and sentences; and
(e) 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 the **ADDRESSES** section. 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 you find unclear, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability 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.

N. Privacy Act of 1974, Existing System of Records

INTERIOR/BIA–7, Tribal Enrollment Reporting and Payment System, published September 27, 2011 (76 FR 59733), contains documents supporting individual Indian claims to interests in Indian Tribal groups and includes name, maiden name, alias, address, date of birth, social security number, blood degree, enrollment/BIA number, date of enrollment, enrollment status, certification by the Tribal governing body, telephone number, email address, account number, marriages, death notices, records of actions taken (approvals, rejections, appeals), rolls of approved individuals; records of actions taken (judgment distributions, per capita payments, shares of stock); ownership and census data taken using the rolls as a base, records concerning individuals which have arisen as a result of that individual's receipt of funds or income to which that individual was not entitled or the entitlement was exceeded in the distribution of such funds.

List of Subjects in 25 CFR Part 83

Administrative practice and procedure, Indians—tribal government.

For the reasons stated in the preamble, the Department of the Interior proposes to amend 25 CFR part 83 as follows:

PART 83—PROCEDURES FOR FEDERAL ACKNOWLEDGMENT OF INDIAN TRIBES

■ 1. The authority citation for part 83 is revised to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 5131; 25 U.S.C. 5130 note (Congressional Findings); and 43 U.S.C. 1457.

■ 2. In § 83.1, add in alphabetical order definitions for ''Re-petition authorization process'', ''Re-petitioning'', and ''Unsuccessful petitioner'' to read as follows:

§ 83.1 What terms are used in this part?

* * * * *

Re-petition authorization process means the process by which the Department handles a request for re-petitioning filed with OFA by an unsuccessful petitioner under §§ 83.47 through 83.62, from receipt to issuance of a decision as to whether the unsuccessful petitioner is authorized to re-petition for acknowledgment as a federally recognized Indian tribe. A grant of authorization to re-petition allows a petitioner to proceed through the Federal acknowledgment process by submitting a new documented petition for consideration under subpart C of this part.

Re-petitioning means, after receiving a negative final determination that is final and effective for the Department and receiving subsequent authorization to re-petition, the submission of a new documented petition for consideration under subpart C of this part.

* * * * *

Unsuccessful petitioner means an entity that was denied Federal acknowledgment after petitioning under the acknowledgment regulations at part 54 of this chapter (as they existed before March 30, 1982) or part 83.

■ 3. In § 83.4, revise paragraph (d) to read as follows:

§ 83.4 Who cannot be acknowledged under this part?

* * * * *

(d) An entity that previously petitioned and was denied Federal acknowledgment under part 54 of this chapter (as it existed before March 30, 1982) or part 83 (including reconstituted, splinter, spin-off, or component groups who were once part of previously denied petitioners) unless the entity meets the conditions of §§ 83.47 through 83.49.

■ 4. Revise § 83.9 to read as follows:

§ 83.9 How does the Paperwork Reduction Act affect the information collections in this part?

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0104. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer—Indian Affairs, 1001 Indian School Road NW, Suite 229, Albuquerque, NM 87104.

■ 5. Add subpart D, consisting of §§ 83.47 through 83.62 to read as follows:

Subpart D—Re-Petition Authorization Process

Sec.

§ 83.47 Who can seek authorization to re-petition under this subpart?

(a) The re-petition authorization process is available to unsuccessful petitioners denied Federal acknowledgment, subject to the exceptions in paragraph (c) of this section.

(b) Any petitioner that, as of [EFFECTIVE DATE OF FINAL RULE], has not yet received a final agency decision and is proceeding under the acknowledgment regulations as published in this part, effective March 28, 1994, may remain under those regulations and, if denied under those regulations, may seek authorization to re-petition under this subpart. These petitioners may also choose by [60 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], to proceed instead under the acknowledgment regulations, as published in this part 83, effective July 31, 2015, and to supplement their petitions, and, if the petition is denied, may seek authorization to re-petition under this subpart. Petitioners choosing to proceed under the regulations as published in this part 83, effective July 31, 2015 must notify OFA of their choice in writing by [60 DAYS AFTER EFFECTIVE DATE OF FINAL RULE], in any legible electronic or hardcopy form.

(c) The re-petition authorization process is not available to the following:

(1) Unsuccessful petitioners that submit a re-petition request pursuant to this process, are granted authorization to re-petition, and are denied Federal acknowledgment a second time;

(2) Unsuccessful petitioners that submit a re-petition request pursuant to this process and are denied authorization to re-petition.

§ 83.48 When will the Department allow a re-petition?

(a) An unsuccessful petitioner may re-petition only if AS–IA determines that the petitioner has plausibly alleged one or both of the following:

(1) A change from part 54 of this chapter (as it existed before March 30, 1982) or part 83 (as it existed before July 31, 2015) to this part 83 would, if applied on reconsideration, change the outcome of the previous, negative final determination to positive; and/or

(2) New evidence (*i.e.,* evidence not previously submitted by the petitioner or otherwise considered by the Department) would, if considered on reconsideration, change the outcome of the previous, negative final determination to positive.

(b) If the Department revises the regulations in this part after [EFFECTIVE DATE OF FINAL RULE], petitioners prohibited from submitting a new re-petition request under § 83.47(c) will be allowed to submit a new re-petition request, but only based on the condition in paragraph (a)(1) of this section.

§ 83.49 How long does an unsuccessful petitioner have to submit a request for authorization to re-petition?

(a) An unsuccessful petitioner denied Federal acknowledgment prior to [EFFECTIVE DATE OF FINAL RULE], may request authorization to re-petition by submitting a complete request under § 83.50 no later than [5 YEARS AFTER EFFECTIVE DATE OF FINAL RULE].

(b) An unsuccessful petitioner denied Federal acknowledgment after [EFFECTIVE DATE OF FINAL RULE], may request authorization to re-petition by submitting a complete request under § 83.50 no later than five years after issuance of the negative final determination. However, if the petitioner pursues judicial review of the negative final determination:

(1) The five-year period will be tolled during any period of judicial review, from the date of filed litigation to the date of entry of judgment and expiration of appeal rights for said litigation; and

(2) Upon expiration of the appeal rights, OFA will notify the petitioner and those listed in § 83.51(b)(2) of the resumption of the five-year time limit and the date by which the petitioner must submit a request for re-petitioning.

§ 83.50 How does an unsuccessful petitioner request authorization to re-petition?

(a) To initiate the re-petition authorization process, the petitioner must submit to OFA, in any legible electronic or hardcopy form, a re-petition request that includes the following:

(1) A certification, signed and dated by the petitioner's governing body, stating that the submission is the petitioner's official request for authorization to re-petition;

(2) A concise written narrative, with citations to supporting documentation, thoroughly explaining how the petitioner meets the conditions of §§ 83.47 through 83.49; and

(3) Supporting documentation cited in the written narrative and containing specific, detailed evidence that the petitioner meets the conditions of §§ 83.47 through 83.49.

(b) If the re-petition request contains any information that is protectable under Federal law such as the Privacy Act and Freedom of Information Act, the petitioner must provide a redacted version, an unredacted version of the relevant pages, and an explanation of the legal basis for withholding such information from public release. The Department will not publicly release information that is protectable under Federal law, but may release redacted information if not protectable under Federal law.

§ 83.51 What notice will OFA provide upon receipt of a request for authorization to re-petition?

When OFA receives a re-petition request that satisfies § 83.50, it will do all of the following:

(a) Within 30 days of receipt, acknowledge receipt in writing to the petitioner.

(b) Within 60 days of receipt:

(1) Publish notice of receipt of the re-petition request in the **Federal Register** and publish the following on the OFA website:

(i) The narrative portion of the re-petition request, as submitted by the petitioner (with any redactions appropriate under § 83.50(b));

(ii) Other portions of the re-petition request, to the extent feasible and allowable under Federal law, except documentation and information protectable from disclosure under Federal law, as identified by the petitioner under § 83.50(b) or by the Department;

(iii) The name, location, and mailing address of the petitioner and other information to identify the entity;

(iv) The date of receipt;

(v) The opportunity for individuals and entities to submit comments and evidence supporting or opposing the petitioner's request for re-petitioning within 90 days of publication of notice of the request; and

(vi) The opportunity for individuals and entities to request to be kept informed of general actions regarding a specific petitioner.

(2) Notify, in writing, the parties entitled to notification of a documented petition under § 83.22(d) and any third parties that participated as a party in an administrative reconsideration or Federal Court appeal concerning the petitioner.

§ 83.52 What opportunity to comment will there be before the Assistant Secretary reviews the re-petition request?

(a) Publication of notice of the request will be followed by a 90-day comment period. During this comment period, any individual or entity may submit the following to OFA to rebut or support the request:

(1) Comments, with citations to and explanations of supporting evidence; and

(2) Evidence cited and explained in the comments.

(b) Any individual or entity that submits comments and evidence to OFA must provide the petitioner with a copy of their submission.

(c) If OFA has received a timely objection and evidence challenging the request, then the petitioner will have 60 days to submit a written response, with citations to and explanations of supporting evidence, and the supporting evidence cited and explained in the response. The Department will not consider additional comments or evidence on the request submitted by individuals or entities during this response period.

(d) After the close of the comment-and-response period, the Department will consider the re-petition request ready for active consideration, and within thirty days of the close of the comment-and-response period, OFA will place the request on the register that OFA maintains under § 83.53(a).

§ 83.53 How will the Assistant Secretary determine which re-petition request to consider first?

(a) OFA shall maintain and make available on its website a register of re-petition requests that are ready for active consideration.

(b) The order of consideration of re-petition requests shall be determined by the date on which OFA places each request on OFA's register of requests ready for active consideration.

(c) The Department will prioritize review of documented petitions over review of re-petition requests, except that re-petition requests pending on OFA's register for more than two years shall have priority over any subsequently filed documented petitions.

§ 83.54 Who will OFA notify when the Assistant Secretary begins review of a re-petition request?

OFA will notify the petitioner and those listed in § 83.51(b)(2) when AS–IA begins review of a re-petition request and will provide the petitioner and those listed in § 83.51(b)(2) with the name, office address, and telephone number of the staff member with primary administrative responsibility for the request.

§ 83.55 What will the Assistant Secretary consider in his/her review?

(a) In any review, AS–IA will consider the re-petition request and evidence submitted by the petitioner, any comments and evidence on the request received during the comment period, and petitioners' responses to comments and evidence received during the response period.

(b) AS–IA may also:

(1) Initiate and consider other research for any purpose relative to analyzing the re-petition request; and

(2) Request and consider timely submitted additional explanations and information from commenting parties to support or supplement their comments on the re-petition request and from the petitioner to support or supplement their responses to comments.

(c) OFA will provide the petitioner with the additional material obtained in paragraph (b) of this section, and provide the petitioner with a 60-day opportunity to respond to the additional material. The additional material and any response by the petitioner will become part of the record.

§ 83.56 Can a petitioner withdraw its re-petition request?

A petitioner can withdraw its re-petition request at any point in the process and re-submit the request at a later date within the five-year time limit applicable to the petitioner under § 83.49. Upon re-submission, the re-petition request will lose its original place in line and be considered after other re-petition requests awaiting review.

§ 83.57 When will the Assistant Secretary issue a decision on a re-petition request?

(a) AS–IA will issue a decision within 180 days after OFA notifies the petitioner under § 83.54 that AS–IA has begun review of the request.

(b) The time set out in paragraph (a) of this section will be suspended any time the Department is waiting for a response or additional information from the petitioner.

§ 83.58 Can AS–IA suspend review of a re-petition request?

(a) AS–IA can suspend review of a re-petition request, either conditionally or for a stated period, if there are technical or administrative problems that temporarily preclude continuing review.

(b) Upon resolution of the technical or administrative problems that led to the suspension, the re-petition request will have the same priority for review to the extent possible.

(1) OFA will notify the petitioner and those listed in § 83.51(b)(2) when AS–IA suspends and when AS–IA resumes review of the re-petition request.

(2) Upon the resumption of review, AS–IA will have the full 180 days to issue a decision on the request.

§ 83.59 How will the Assistant Secretary make the decision on a re-petition request?

(a) AS–IA's decision will summarize the evidence, reasoning, and analyses that are the basis for the decision regarding whether the petitioner meets the conditions of §§ 83.47 through 83.49.

(b) If AS–IA finds that the petitioner meets the conditions of §§ 83.47 through 83.49, AS–IA will issue a grant of authorization to re-petition.

(c) If AS–IA finds that the petitioner has not met the conditions of §§ 83.47 through 83.49, AS–IA will issue a denial of authorization to re-petition.

§ 83.60 What notice of the Assistant Secretary's decision will OFA provide?

In addition to publishing notice of AS–IA's decision in the **Federal Register**, OFA will:

(a) Provide copies of the decision to the petitioner and those listed in § 83.51(b)(2); and

(b) Publish the decision on the OFA website.

§ 83.61 When will the Assistant Secretary's decision become effective, and can it be appealed?

AS–IA's decision under § 83.59 will become effective immediately and is not subject to administrative appeal.

(a) A grant of authorization to re-petition is not a final determination granting or denying acknowledgment as a federally recognized Indian tribe. Instead, it allows the petitioner to proceed through the Federal acknowledgment process by submitting a new documented petition for consideration under subpart C of this part, notwithstanding the Department's previous, negative final determination. A grant of authorization to re-petition is not subject to appeal.

(b) A denial of authorization to re-petition is final for the Department and is a final agency action under the Administrative Procedure Act (5 U.S.C. 704).

§ 83.62 What happens if some portion of this subpart is held to be invalid by a court of competent jurisdiction?

If any portion of this subpart is determined to be invalid by a court of competent jurisdiction, the other portions of the subpart remain in effect. For example, if one of the conditions on re-petitioning set forth at §§ 83.47 through 83.49 is held to be invalid, it is the Department's intent that the other conditions remain valid.

Bryan Newland,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–102161–23]

RIN 1545–BQ89

Identification of Basket Contract Transactions as Listed Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would identify transactions that are the same as, or substantially similar to, certain basket contract transactions as listed transactions, a type of reportable transaction. Material advisors and certain participants in these listed transactions would be required to file disclosures with the IRS and would be subject to penalties for failure to disclose. The proposed regulations would affect participants in these transactions as well as material advisors. This document also provides notice of a public hearing on the proposed regulations.

DATES:

Comments: Written or electronic comments must be received by September 10, 2024.

Public Hearing: A public hearing has been scheduled for September 26, 2024, at 10:00 a.m. ET. Pursuant to Announcement 2023–16, 2023–20 I.R.B. 854 (May 15, 2023), the public hearing is scheduled to be conducted in person, but the IRS will provide a telephonic option for individuals who wish to attend or testify at the hearing by telephone. Requests to speak and outlines of topics to be discussed at the public hearing must be received by September 10, 2024. If no outlines are received by September 10, 2024, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5:00 p.m. ET on September 24, 2024. The hearing will be made accessible to people with disabilities. Requests for special assistance during the hearing must be received by 5:00 p.m. on September 23, 2024.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–102161–23) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG–102161–23), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Danielle M. Heavey of the Office of Associate Chief Counsel (Financial Institutions & Products), (202) 317–5931 (not a toll-free number); concerning the submission of comments or the hearing, Publications and Regulations Section at (202) 317–6901 (not a toll-free number) or by email at *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed additions to 26 CFR part 1 (Income Tax Regulations) under section 6011 of the Internal Revenue Code (Code). The proposed additions identify certain transactions as ''listed transactions'' for purposes of section 6011.

I. Disclosure of Reportable Transactions by Participants and Penalties for Failure To Disclose

Section 6011(a) generally provides that, when required by regulations prescribed by the Secretary of the Treasury or her delegate (Secretary), any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

Section 1.6011–4(a) provides that every taxpayer that has participated in a reportable transaction within the meaning of § 1.6011–4(b) and who is required to file a tax return must file a disclosure statement within the time prescribed in § 1.6011–4(e). Reportable transactions are identified in § 1.6011–4 and include listed transactions, confidential transactions, transactions with contractual protection, loss transactions, and transactions of interest. *See* § 1.6011–4(b)(2) through (6). Section 1.6011–4(b)(2) defines a listed transaction as a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by

notice, regulation, or other form of published guidance as a listed transaction. Section 1.6011–4(b)(6) defines a ''transaction of interest'' as a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has identified by notice, regulation, or other form of published guidance as a transaction of interest.

Section 1.6011–4(c)(4) provides that a transaction is ''substantially similar'' if it is expected to obtain the same or similar types of tax consequences and is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term substantially similar must be broadly construed in favor of disclosure. For example, a transaction may be substantially similar to a listed transaction even though it may involve different entities or use different Code provisions.

Section 1.6011–4(c)(3)(i)(A) provides that a taxpayer has participated in a listed transaction if the taxpayer's tax return reflects tax consequences or a tax strategy described in the published guidance that lists the transaction under § 1.6011–4(b)(2). Published guidance may identify other types or classes of persons that will be treated as participants in a listed transaction. Published guidance may also identify types or classes of persons that will not be treated as participants in a listed transaction. Section 1.6011–4(c)(3)(i)(E) provides that a taxpayer has participated in a transaction of interest if the taxpayer is one of the types or classes of persons identified as participants in the transaction in the published guidance describing the transaction of interest.

Sections 1.6011–4(d) and (e) provide that the disclosure-statement—Form 8886, *Reportable Transaction Disclosure Statement* (or successor form)—must be attached to the taxpayer's tax return for each taxable year for which a taxpayer participates in a reportable transaction. A copy of the disclosure statement must be sent to IRS's Office of Tax Shelter Analysis (OTSA) at the same time that any disclosure statement is first filed by the taxpayer pertaining to a particular reportable transaction.

Section 1.6011–4(e)(2)(i) provides that if a transaction becomes a listed transaction or a transaction of interest after the filing of a taxpayer's tax return reflecting the taxpayer's participation in the transaction and before the end of the period of limitations for assessment for any taxable year in which the taxpayer participated in the transaction, then a disclosure statement must be filed with OTSA within 90 calendar days after the date on which the transaction becomes a listed transaction or transaction of interest. This requirement extends to an amended return and exists regardless of whether the taxpayer participated in the transaction in the year the transaction became a listed transaction or transaction of interest. The Commissioner of Internal Revenue may also determine the time for disclosure of listed transactions and transactions of interest in the published guidance identifying the transaction.

Participants required to disclose these transactions under § 1.6011–4 who fail to do so are subject to penalties under section 6707A. Section 6707A(b) provides that the amount of the penalty is 75 percent of the decrease in tax shown on the return as a result of the reportable transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes), subject to minimum and maximum penalty amounts. The minimum penalty amount is $5,000 in the case of a natural person and $10,000 in any other case. For listed transactions, the maximum penalty amount is $100,000 in the case of a natural person and $200,000 in any other case. For other reportable transactions, including transactions of interest, the maximum penalty is $10,000 in the case of a natural person and $50,000 in any other case.

Additional penalties may also apply. In general, section 6662A imposes a 20 percent accuracy-related penalty on any understatement (as defined in section 6662A(b)(1)) attributable to an adequately disclosed reportable transaction. If the taxpayer had a requirement to disclose participation in the reportable transaction but did not adequately disclose the transaction in accordance with the regulations under section 6011, the taxpayer is subject to an increased penalty rate equal to 30 percent of the understatement. *See* section 6662A(c). Section 6662A(b)(2) provides that section 6662A applies to any item which is attributable to any listed transaction and any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

Participants required to disclose listed transactions who fail to do so are also subject to an extended period of limitations under section 6501(c)(10). That section provides that the time for assessment of any tax with respect to the transaction does not expire before the date that is one year after the earlier of the date the participant discloses the transaction or the date a material advisor discloses the participation pursuant to a written request under section 6112(b)(1)(A).

II. Disclosure of Reportable Transactions by Material Advisors and Penalties for Failure To Disclose

Section 6111(a) provides that ''[e]ach material advisor with respect to any reportable transaction shall make a return . . . setting forth . . . (1) information identifying and describing the transaction, (2) information describing any potential tax benefits expected to result from the transaction, and (3) such other information as the Secretary may prescribe. Such return shall be filed not later than the date specified by the Secretary.''

Section 301.6111–3(a) of the Procedure and Administration Regulations provides that each material advisor with respect to any reportable transaction, as defined in § 1.6011–4(b), must file a return as described in § 301.6111–3(d) by the date described in § 301.6111–3(e).

Section 301.6111–3(b)(1) provides that a person is a material advisor with respect to a transaction if the person provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and directly or indirectly derives gross income in excess of the threshold amount as defined in § 301.6111–3(b)(3) for the material aid, assistance, or advice. Under § 301.6111–3(b)(2)(i) and (ii), a person provides material aid, assistance, or advice if the person provides a tax statement, which is any statement (including another person's statement), oral or written, that relates to a tax aspect of a transaction that causes the transaction to be a reportable transaction as defined in § 1.6011–4(b)(2) through (7).

Material advisors must disclose transactions on Form 8918, *Material Advisor Disclosure Statement* (or successor form), as provided in § 301.6111–3(d) and (e). Section 301.6111–3(e) provides that the material advisor's disclosure statement for a reportable transaction must be filed with OTSA by the last day of the month that follows the end of the calendar quarter in which the advisor becomes a material advisor with respect to a reportable transaction or in which the circumstances necessitating an amended disclosure statement occur. The disclosure statement must be sent to

OTSA at the address provided in the instructions for Form 8918 (or successor form).

Section 301.6111–3(d)(2) provides that the IRS will issue to a material advisor a reportable transaction number with respect to the disclosed reportable transaction. Receipt of a reportable transaction number does not indicate that the disclosure statement is complete, nor does it indicate that the transaction has been reviewed, examined, or approved by the IRS. Material advisors must provide the reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor as defined in § 301.6111–3(b). The reportable transaction number must be provided at the time the transaction is entered into, or, if the transaction is entered into prior to the material advisor receiving the reportable transaction number, within 60 calendar days from the date the reportable transaction number is mailed to the material advisor.

Section 6707(a) provides that a material advisor who fails to file a timely disclosure, or files an incomplete or false disclosure statement, is subject to a penalty. Pursuant to section 6707(b)(2), for listed transactions, the penalty is the greater of (A) $200,000, or (B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return is filed under section 6111. Pursuant to section 6707(b)(1), the penalty for other reportable transactions, including transactions of interest, is $50,000.

A material advisor may also be subject to a penalty under section 6708 for failing to maintain a list under section 6112(a) and failing to make the list available upon written request to the Secretary in accordance with section 6112(b) within 20 business days after the date of such request. Section 6708(a) provides that the penalty is $10,000 per day for each day of the failure after the 20th day. However, no penalty will be imposed with respect to the failure on any day if such failure is due to reasonable cause.

Additionally, section 6112(a) provides that ''[e]ach material advisor . . . with respect to any reportable transaction . . . shall (whether or not required to file a return under section 6111 with respect to such transaction) maintain (in such manner as the Secretary may by regulations prescribe) a list (1) identifying each person with respect to whom such advisor acted as a material advisor with respect to such transaction and (2) containing such other information as the Secretary may by regulations require.'' Material advisors must furnish such lists to the IRS in accordance with § 301.6112–1(e).

III. Basket Contract Transactions and Notices 2015–73 and 2015–74

The Treasury Department and the IRS are aware of a type of structured financial transaction in which a taxpayer attempts to defer income recognition and to convert short-term capital gain and ordinary income to long-term capital gain using a contract denominated as an option, notional principal contract, forward contract, or other derivative contract (basket contract). On July 8, 2015, the Treasury Department and the IRS released Notice 2015–47, 2015–30 I.R.B. 76, which identified certain basket contracts described in that notice as listed transactions. In addition, on July 8, 2015, the Treasury Department and the IRS released Notice 2015–48, 2015–30 I.R.B. 77, which identified certain basket contracts described in that notice as transactions of interest. Although Notice 2015–47 and Notice 2015–48 did not request comments, some industry comments were submitted expressing concern that difficulty in identifying transactions described in Notice 2015–47 and Notice 2015–48 may cause taxpayers to file disclosures for transactions that were not intended to be treated as listed transactions or transactions of interest.

Responding to these concerns, on October 21, 2015, the Treasury Department and the IRS released Notice 2015–73, 2015–46 I.R.B. 660, which revoked Notice 2015–47 and provided additional details on the types of basket contracts that were identified as listed transactions. Similarly, on October 21, 2015, the Treasury Department and the IRS released Notice 2015–74, 2015–46 I.R.B. 663, which revoked Notice 2015–48 and provided additional details on the types of basket contracts that were identified as transactions of interest. Also in response to commenter concerns, Notice 2015–73 and Notice 2015–74 more specifically describe the tax benefits that identify the transaction as a listed transaction or transaction of interest, respectively.

The background section of Notice 2015–73 provides the following description of one type of structured financial transaction that the Treasury Department and the IRS were concerned about when the Notice was issued: a taxpayer (T) enters into a contract denominated as an option with a counterparty (C) to receive a return based on the performance of a notional basket of referenced actively traded personal property (reference basket). T, or a designee named by T, will either determine the assets that comprise the reference basket or design or select a trading algorithm that determines the assets. While the basket contract remains open, T [1] has the right to change the assets in the reference basket, request that C change the assets in the reference basket, change the trading algorithm, or request that C change the trading algorithm (collectively, discretion). The terms of the basket contract may permit C to reject certain changes requested by T to the assets in the reference basket or the trading algorithm. C, however, generally accepts all or nearly all of the changes requested by T.

When the basket contract is entered into, T typically makes an upfront cash payment to C of between 10 and 40 percent of the value of the assets in the reference basket. To manage its risk under the basket contract, C typically acquires substantially all of the assets in the reference basket at the inception of the contract and acquires and disposes of assets during the term of the contract either when T changes the assets in the reference basket or the trading algorithm provides for such changes. C generally supplies the additional cash required to purchase the assets in the reference basket. The assets in the reference basket would typically generate ordinary income if held directly by T, and short-term gains and losses if purchases and sales of the assets were carried out directly by T.

The basket contract has a stated term of more than one year but contains provisions that in effect allow either party to terminate the contract at any time during the stated contract term with proper notice. The amount that T receives upon settlement of the basket contract is based on the performance of the assets in the reference basket. A common payout formula on the basket contract entitles T to a return equal to the upfront payment, plus net basket gain or minus net basket loss. The net basket gain or net basket loss includes net changes in the values of the assets in the reference basket, together with interest, dividend, and other periodic income on the assets, reduced by C's fee for its role in the transaction. The basket contract typically includes a provision automatically terminating the contract if the amount of the net basket loss reaches the amount of the upfront payment, giving T a cash settlement

[1] When used in this sentence and subsequently with respect to changing or requesting changes to the assets in the reference basket or the trading algorithm, references to ''T'' include T's designee.

amount of zero. The basket contract also may permit or require T to provide additional collateral or otherwise reduce risk in the reference basket if a specified level of risk is reached.

The basket contract typically contains other safeguards to minimize the economic risk to C. For example, C may terminate the basket contract if T violates investment guidelines that are part of the contract. C typically holds the rights associated with legal title to the assets and positions in the reference basket, including voting rights and the right to comingle, lend, pledge, transfer, or otherwise use the assets in the basket without notice to T.

Notice 2015–73 identifies a transaction as being the same as, or substantially similar to, the described basket contract transaction only if: (1) T enters into a transaction with C that is denominated as an option contract; (2) T receives a return based on the performance of the reference basket; (3) substantially all of the assets in the reference basket primarily consist of actively traded personal property as defined under § 1.1092(d)–1(a); (4) the contract is not fully settled at intervals of one year or less; (5) T or T's designee has exercised discretion to change (either directly or through a request to C) the assets in the reference basket or the trading algorithm; and (6) T's tax return for a taxable year ending on or after January 1, 2011 reflects a tax benefit consisting of a deferral of income into a later taxable year or a conversion of ordinary income or short-term capital gain or loss into long-term capital gain or loss.

The basket contracts identified as transactions of interest in Notice 2015–74 closely resemble the basket contracts identified as listed transactions in Notice 2015–73. The primary factual differences between the basket contracts identified in Notice 2015–73 and the basket contracts identified in Notice 2015–74 are: (1) the form of the derivative contract; (2) the type of assets in the reference basket; and (3) the term of the contract. Regarding the form of the derivative contract, Notice 2015–73 identifies only contracts denominated as options, while Notice 2015–74 identifies contracts more generally, including those denominated as options, notional principal contracts, forwards, or other derivative contracts. Regarding the type of assets in the reference basket, the transactions identified in Notice 2015–73 are transactions in which substantially all of the assets in the reference basket primarily consist of actively traded personal property as defined under § 1.1092(d)–1(a), while, with respect to the contracts identified in Notice 2015–74, the assets that comprise the reference basket can include (i) interests in entities that trade securities, commodities, foreign currency, or similar property (hedge fund interests), (ii) securities, (iii) commodities, (iv) foreign currency, or (v) similar property (or positions in such property). Regarding the term of the contract, Notice 2015–73 identifies contracts with a term of more than one year, while Notice 2015–74 identifies contracts with a term of more than one year and contracts that overlap two taxable years.

In the basket contracts identified in Notice 2015–73 and Notice 2015–74, T takes the position that T's short-term trading gains and interest, dividend, and other ordinary income from the performance of the reference basket are deferred until the basket contract terminates and, if the basket contract is held for more than one year, that the entire gain is treated as long-term capital gain. The Treasury Department and the IRS are concerned that taxpayers may be using basket contracts to inappropriately defer income recognition or convert ordinary income or short-term capital gain into long-term capital gain. The Treasury Department and the IRS are also concerned that taxpayers may be mischaracterizing the transaction as an option or certain other derivatives in an effort to avoid application of section 1260 (with respect to constructive ownership transactions), section 1291 (with respect to passive foreign investment companies), or both.

Explanation of Provisions

A. Basket Contract Listed Transactions

1. In General

Since the release of Notice 2015–74, examinations of taxpayers and promoters and information received through disclosures filed in response to Notice 2015–74 have clarified the Treasury Department's and the IRS's understanding of basket contracts identified in Notice 2015–74. The information received indicates that basket contracts identified in Notice 2015–74 have been used to inappropriately defer income recognition or inappropriately convert ordinary income or short-term capital gain into long-term capital gain. In other words, the Treasury Department and the IRS believe that there is now sufficient information to conclude that one or both of the abuses about which the Treasury Department and the IRS are concerned exists in the transactions identified in both Notice 2015–73 and Notice 2015–74. Therefore, the Treasury Department and the IRS are proposing in these proposed regulations to identify both the transactions in Notice 2015–73 and the transactions in Notice 2015–74 as listed transactions. Consistent with this determination, the definition of a basket contract listed transaction in these proposed regulations would include the transactions in Notice 2015–74.

The IRS may assert one or more arguments to challenge the parties' tax characterization of a basket contract, including: (1) that C, in substance, holds the assets in the reference basket as an agent of T and that T is the beneficial owner of the assets for tax purposes; (2) that the basket contract is not an option or other derivative contract for tax purposes; (3) that changes to the assets in the reference basket during the year materially modify the basket contract and result in taxable dispositions of the contract under section 1001 of the Code throughout the term of the contract; (4) that T actually owns separate contractual rights with respect to each asset in the reference basket such that each change to assets in the basket results in a taxable disposition of a contractual right under section 1001 with respect to the asset affected by the change; (5) that T is mischaracterizing the transaction as an option or certain other derivatives in an effort to avoid application of section 1260 (with respect to constructive ownership transactions), section 1291 (with respect to passive foreign investment companies), or both; (6) that a change from accounting for basket contracts as derivative contracts with respect to the referenced assets to accounting for the contracts in a manner consistent with T's beneficial ownership of the referenced assets results in one or more accounting method changes within the meaning of section 446; and (7) any accounting method change generally will be implemented with a section 481(a) adjustment that takes on the character of the item to which the adjustment relates. The IRS may also assert other arguments supporting the conclusion that T is the beneficial owner of the assets in the reference basket for tax purposes. Furthermore, the IRS may challenge, including by asserting judicial doctrines, claimed tax positions under sections 871, 881, and 882 or other provisions of the Code, and may assert failures to comply with reporting obligations associated with investments in passive foreign investment companies and withholding and reporting obligations under chapters 3 and 4 of the Code.

2. Definition of Basket Contract Listed Transaction

Proposed § 1.6011–16(a) would provide that a transaction that is the same as, or substantially similar to, a transaction described in proposed § 1.6011–16(c) is a listed transaction for purposes of § 1.6011–4(b)(2), except as provided in proposed § 1.6011–16(d).

Proposed § 1.6011–16(b) would provide definitions of terms used to describe basket contract listed transactions, including counterparty (or C), taxpayer (or T), designee, discretion, tax benefit, and reference basket.

The term designee, with respect to a T having discretion or having exercised discretion, is defined in proposed § 1.6011–16(b)(3) as any person who is: T's agent under principles of agency law; compensated by T for suggesting, requesting, or determining changes in the assets in the reference basket or the trading algorithm; or selected by T to suggest, request, or determine changes in the assets in the reference basket or the trading algorithm. A person would not, however, be treated as compensated or selected by T as a result of: the person's position as an investment advisor, officer, or employee of an entity, such as a mutual fund, when the entity's publicly offered securities are included in the reference basket; or the person's use of, the person's payment of a licensing fee for the right to use, or the person's authority to suggest, request, or determine changes in the assets included in a widely used and publicly quoted index that is based on objective financial information or an index that tracks a broad market or a market segment.

With respect to the term discretion, proposed § 1.6011–16(b)(4) would provide that discretion includes T's right to change, either directly or through a request to C, the assets in the reference basket or the trading algorithm, even if the terms of the transaction permit C to reject certain changes requested by T to the assets in the reference basket or the trading algorithm. T would not be treated as having discretion to change (either directly or through a request to C) the assets in the reference basket or the trading algorithm if changes in the assets in the reference basket or the trading algorithm were made according to objective instructions, operations, or calculations that were disclosed at the inception of the transaction (the rules) and T does not have the right to alter or amend the rules during the term of the transaction or to deviate from the assets in the reference basket or the trading algorithm selected in accordance with the rules. For these purposes, T would not be treated as having the right to alter or amend the rules solely because T has the authority: to exercise routine judgment in the administration of the rules, which would not include deviations or alterations to the rules that are designed to improve the financial performance of the reference basket; to correct errors in the implementation of the rules or calculations made pursuant to the rules; or to make an adjustment to respond to an unanticipated event outside of T's control, such as a stock split, merger, listing or delisting, nationalization, or insolvency of a component of a basket, a disruption in the financial markets for specific assets or in a particular jurisdiction, regulatory compliance requirement, force majeure, or any other unanticipated event of similar magnitude and significance.

The term tax benefit would be defined in proposed § 1.6011–16(b)(5) as a deferral of income into a later taxable year or a conversion of ordinary income or short-term capital gain or loss into long-term capital gain or loss.

The term reference basket would be defined in proposed § 1.6011–16(b)(6) as a notional basket of assets that may include: actively traded personal property as defined under § 1.1092(d)–1(a); interests in entities that trade securities, commodities, foreign currency, digital assets as defined in section 6045(g)(3)(D), or similar property; securities; commodities; foreign currency; digital assets as defined in section 6045(g)(3)(D); or similar property (or positions in such property).

The types of assets included in the definition of reference basket in these proposed regulations would be expanded from the types set forth in Notice 2015–73 and Notice 2015–74. Specifically, since the publication of Notice 2015–73 and Notice 2015–74, digital assets have grown in popularity as an investment or trading asset. Taxpayers can trade digital assets directly and also trade digital assets through derivatives, including futures and option contracts, on digital assets. The Treasury Department and the IRS believe that derivatives on digital assets raise the same issues as derivatives on other types of assets. As a result, the types of assets in the definition of reference basket in these proposed regulations include digital assets. No inference is intended as to whether a digital asset should or should not be properly classified for Federal income tax purposes as a security, commodity, option, securities futures contract, regulated futures contract, or forward contract. Similarly, the potential characterization of digital assets as securities, commodities, or derivatives for purposes of any other legal regime, such as the Federal securities laws and the Commodity Exchange Act, is outside the scope of these proposed regulations.

A transaction would be described in proposed § 1.6011–16(c) if it meets the five elements described in proposed § 1.6011–16(c)(1) through (5). These five elements are as follows:

(i) T enters into a contract with C, including a contract denominated as an option, notional principal contract (as defined in § 1.446–3(c)(1)(i)), forward contract, or other derivative contract to receive a return based on the performance of a reference basket;

(ii) The contract has a stated term of more than one year, or overlaps two of T's taxable years;

(iii) T or T's designee has exercised discretion to change (either directly or through a request to C) the assets in the reference basket or the trading algorithm;

(iv) T's tax return for a taxable year ending on or after January 1, 2011, reflects a tax benefit described in proposed § 1.6011–16(b)(5) with respect to the transaction; and

(v) The transaction is not described in proposed § 1.6011–16(d).

3. Exceptions

Proposed § 1.6011–16(d) would provide that a transaction is not the same as, or substantially similar to, the transaction described in proposed § 1.6011–16(c) if any of the three exceptions described in proposed § 1.6011–16(d)(1) through (3) applies. Certain exceptions would apply only to C. Proposed § 1.6011–16(d) would provide that these three exceptions are as follows:

(i) The contract is traded on a national securities exchange that is regulated by the Securities and Exchange Commission or a domestic board of trade regulated by the Commodity Futures Trading Commission, or a foreign exchange or board of trade that is subject to regulation by a comparable regulator.

(ii) The contract is treated as a contingent payment debt instrument under § 1.1275–4 (including a short-term contingent payment debt instrument) or a variable rate debt instrument under § 1.1275–5.

(iii) With respect to C, if:

(A) T represents to C in writing under penalties of perjury that none of T's tax returns for taxable years ending on or after January 1, 2011, has reflected or will reflect a tax benefit of the transaction that is described in proposed § 1.6011–16(b)(5); or

(B) C has established that T is a nonresident alien that is not engaged in a U.S. trade or business or a foreign corporation that is not engaged in a U.S. trade or business by obtaining a valid withholding certificate (W–8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals),* or W–8BEN–E, *Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)* (or successor forms)) upon which it may rely under the requirements of § 1.1441–1 from T as the beneficial owner of the payments made or to be made under the basket contract, or in the case of payments made outside of the U.S. on offshore obligations, by obtaining documentary evidence described in § 1.1441–1(c)(17) upon which it is permitted to rely.

4. Participants

Proposed § 1.6011–16(e) would provide the rules for determining who is a participant in a listed transaction identified in proposed § 1.6011–16(a). The rules provided in proposed § 1.6011–16(e) generally are consistent with Notice 2015–73 and Notice 2015–74, which included rules regarding the treatment of a general partner of a partnership or a managing member of a limited liability company as a participant. However, because an entity may be treated as a partnership for Federal tax purposes but not have one or more general partners or managing members, proposed § 1.6011–16(e) would provide that in such a case each partner is a participant for purposes of § 1.6011–4(c)(3)(i)(A).

B. Effect of Becoming a Listed Transaction Under These Regulations

If these proposed regulations are finalized as proposed, taxpayers that participate in the basket contract transactions that would be identified as listed transactions by these proposed regulations, and persons who act as material advisors with respect to these transactions, would be required to disclose these transactions in accordance with the final regulations and the regulations issued under sections 6011 and 6111. Material advisors also would have list maintenance requirements under the final regulations and the regulations issued under section 6112. Participants required to disclose these transactions under § 1.6011–4 who fail to do so would be subject to penalties under section 6707A. Participants required to disclose listed transactions under § 1.6011–4 who fail to do so would also be subject to an extended period of limitations under section 6501(c)(10). Material advisors required to disclose these transactions under section 6111 who fail to do so would be subject to the penalty under section 6707. Material advisors required to maintain lists of investors under section 6112 who fail to do so (or who fail to provide such lists when requested by the IRS) would be subject to the penalty under section 6708(a). In addition, the IRS might impose other penalties on persons involved in these transactions or substantially similar transactions, including accuracy-related penalties under section 6662 or section 6662A, the section 6694 penalty for understatements of a taxpayer's liability by a tax return preparer, the section 6700 penalty for promoting abusive tax shelters, and the section 6701 penalty for aiding and abetting understatement of a tax liability.

Taxpayers who have filed a tax return (including an amended return (or Administrative Adjustment Request (AAR) for certain partnerships)) reflecting their participation in these transactions prior to [date of publication of final regulations in the **Federal Register**] would be required to disclose the transactions as provided in § 1.6011–4(d) and (e) provided that the period of limitations for assessment of tax, including any applicable extensions, for any taxable year in which the taxpayer participated in the transaction has not ended on or before [date of publication of final regulations in the **Federal Register**].

Taxpayers who have filed a tax return reflecting their participation in a basket contract transaction identified as a listed transaction in Notice 2015–73 and in the final regulations before [date of publication of final regulations in the **Federal Register**] and who have not disclosed the transaction pursuant to Notice 2015–73 would be required by the final regulations and § 1.6011–4(e)(2)(i) to file a disclosure within 90 calendar days after [date of publication of final regulations in the **Federal Register**] if the period of limitations for assessment for any taxable year in which the taxpayer participated in the transaction remains open.

A participant in a transaction that is a basket contract listed transaction that has previously filed a disclosure statement with OTSA pursuant to Notice 2015–73 regarding the transaction would be treated as having disclosed the transaction pursuant to the final regulations for taxable years for which the taxpayer filed returns before [date of publication of final regulations in the **Federal Register**]. However, if a taxpayer described in the preceding sentence participates in the basket contract listed transaction in a taxable year for which the taxpayer files a return on or after [date of publication of final regulations in the **Federal Register**], the taxpayer would be required to file a disclosure statement with OTSA at the same time the taxpayer files its return for the first such taxable year.

A participant in a transaction that is a basket contract listed transaction under the proposed regulations and that is identified as a transaction of interest under Notice 2015–74 would be required to file a disclosure statement with OTSA when required to do so under the rules provided in § 1.6011–4(e)(2)(i) for disclosure of listed transactions, notwithstanding that the participant has previously disclosed the transaction to OTSA pursuant to Notice 2015–74.

In addition, material advisors would have disclosure requirements with regard to transactions occurring in prior years. However, notwithstanding § 301.6111–3(b)(4)(i) and (ii), material advisors would be required to disclose only if they have made a tax statement on or after the date that is 6 years before [date of publication of final regulations in the **Federal Register**].

A material advisor with respect to a transaction that is a basket contract listed transaction would be required to file a disclosure statement with OTSA when required to do so under § 301.6111–3(e), regardless of whether the material advisor has previously disclosed the transaction to OTSA pursuant to Notice 2015–73 or Notice 2015–74.

Proposed Applicability Dates

Proposed § 1.6011–16 would identify transactions that are the same as, or substantially similar to, the basket contract transactions described in proposed § 1.6011–16(c) as listed transactions effective as of [date of publication of final regulations in the **Federal Register**].

Effect on Other Documents

This document obsoletes Notice 2015–74, 2015–46 I.R.B. 663, as of July 12, 2024. These proposed regulations do not obsolete, revoke, or modify Notice 2015–73, 2015–46 I.R.B. 660.

Special Analyses

I. Regulatory Planning and Review

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject

to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

II. Paperwork Reduction Act

The collection of information contained in these proposed regulations is reflected in the collection of information for Forms 8886 and 8918 that have been reviewed and approved by OMB in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)) under control numbers 1545–1800 and 1545–0865.

To the extent there is a change in burden as a result of these regulations, the change in burden will be reflected in the updated burden estimates for the Forms 8886 and 8918. The requirement to maintain records to substantiate information on Forms 8886 and 8918 is already contained in the burden associated with the control numbers for the forms and is unchanged.

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.

III. Regulatory Flexibility Act

The Secretary of the Treasury hereby certifies that the proposed regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The basis for these proposed regulations relates to the transactions described in Notice 2015–73 and Notice 2015–74. The following charts set forth the gross receipts of respondents to Notice 2015–73 and Notice 2015–74, based on data for the tax year 2021. The number of small entities affected in all cases is expected to be less than 50.

Receipts	Firms (%)	Filings (%)
Notice 2015–73 Respondents by Size		
Under 25M	60	10
Over 25M	40	90
Notice 2015–74 Respondents by Size		
Under 25M	75	33
Over 25M	25	67

These charts show that the majority of respondents reported gross receipts under $25 million. The proposed regulations will not have a significant economic impact on these entities because the proposed regulations implement sections 6111 and 6112 and § 1.6011–4 by specifying the manner in which and the time at which an identified basket contract transaction must be reported. Accordingly, because the proposed regulations are limited in scope to time and manner of information reporting and definitional information, the economic impact of the proposal is expected to be minimal.

Further, the Treasury Department and the IRS expect that the reporting burden is low; the information sought is necessary for regular annual return preparation and ordinary recordkeeping. The estimated burden for any taxpayer required to file Form 8886 is approximately 10 hours, 16 minutes for recordkeeping; 4 hours, 50 minutes for learning about the law or the form; and 6 hours, 25 minutes for preparing, copying, assembling, and sending the form to the IRS. The IRS's Research, Applied Analytics, and Statistics division estimates that the appropriate wage rate for this set of taxpayers is $59.45 (2021 dollars) per hour for Notice 2015–73 and $55.67 (2021 dollars) per hour for Notice 2015–74. Thus, it is estimated that a respondent will incur costs of approximately $1,873.67 per filing for Notice 2015–73 and $1,754.53 per filing for Notice 2015–74. Disclosures received to date by the Treasury Department and the IRS in response to the reporting requirements of Notice 2015–73 and Notice 2015–74 indicate that this small amount will not pose any significant economic impact for those taxpayers who would be required to disclose if the proposed regulations were finalized as proposed.

For the reasons stated, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. The Treasury Department and the IRS invite comments on the impact of the proposed regulations on small entities. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million (updated annually for inflation). This proposed rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

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

Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to any comments regarding the notice of proposed rulemaking that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section.

The Treasury Department and the IRS request comments on all aspects of the proposed regulations. The Treasury Department and the IRS are aware that there have been developments in the financial markets since Notice 2015–73 and Notice 2015–74 were issued, and that taxpayers may have questions about how certain definitions or terms in the notices apply to transactions of a kind that did not exist at that time. Accordingly, the Treasury Department and the IRS are soliciting comments in order to better understand these more recent transactions and to determine whether any responsive changes should be made to the proposed regulations. Any comment should explain how any proposal contained in the comment would be consistent with the objective of these proposed regulations to require disclosure of transactions involving the abuse described in these proposed regulations to enable the Treasury Department and the IRS to learn about abusive transactions.

The Treasury Department and the IRS specifically request comments on the following:

1. Are there types of transactions to which the proposed regulations may apply that did not exist when Notice 2015–73 and Notice 2015–74 were issued?

2. Specific examples of indices that should qualify as a ''widely used and publicly quoted index that is based on objective financial information'' (*see* proposed § 1.6011–16(b)(3)(ii)(B)).

3. Specific examples of indices that should be treated as one that ''tracks a broad market or a market segment'' (*see* proposed § 1.6011–16(b)(3)(ii)(B)).

4. Specific examples of ''objective instructions, operations or calculations'' (*see* proposed § 1.6011–16(b)(4)(ii)(A)).

5. Specific examples of the exercise of ''routine judgment in the administration of the rules'' (*see* proposed § 1.6011–16(b)(4)(iii)(A)).

6. Are there changes that could be made to clarify how to apply the terms described in requests 2 through 5, above, to specific types of transactions?

7. Are there alternative rules that should apply to determine which persons treated as partners in an arrangement or entity that is treated as a partnership for Federal income tax purposes but that does not have one or more general partners or managing members should be treated as participants in a transaction carried out by the partnership?

All comments will be made available at *https://www.regulations.gov.* Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing has been scheduled for September 26, 2024, beginning at 10:00 a.m. ET in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by September 10, 2024. A period of 10 minutes will be allotted for each person making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing. If no outline of the topics to be discussed at the hearing is received by September 10, 2024, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number REG–102161–23 and the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG–102161–23.

Individuals who want to testify by telephone at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–102161–23 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG–102161–23.

Individuals who want to attend the public hearing in person without testifying must also send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number REG–102161–23 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG–102161–23. Requests to attend the public hearing must be received by 5:00 p.m. ET on September 24, 2024.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–102161–23 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–102161–23. Requests to attend the public hearing must be received by 5:00 p.m. EST on September 24, 2024.

Hearings will be made accessible to people with disabilities. To request special assistance during a hearing please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by at least September 23, 2024.

Statement of Availability of IRS Documents

The notices cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

Drafting Information

The principal author of these proposed regulations is Danielle M. Heavey, Office of Associate Chief Counsel (Financial Institutions & Products). However, other personnel from the Treasury Department and the IRS participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income Taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry for § 1.6011–16 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 1.6011–16 also issued under 26 U.S.C. 6001 and 26 U.S.C. 6011.

* * * * *

■ **Par. 2.** Section 1.6011–16 is added to read as follows:

§ 1.6011–16 Basket contract listed transaction.

(a) *Identification as listed transaction.* Transactions that are the same as, or substantially similar to, transactions described in paragraph (c) of this section are identified as listed transactions for purposes of § 1.6011–4(b)(2).

(b) *Definitions.* The following definitions apply for purposes of this section:

(1) *Counterparty.* The term *counterparty* or *C* means a person who enters into a contract described in paragraph (c) of this section with the taxpayer.

(2) *Taxpayer.* The term *taxpayer* or *T* means—

(i) A taxpayer as defined in § 1.6011–4(c)(1) that enters into a contract described in paragraph (c) of this section with the counterparty; and

(ii) With respect to any reference to T having discretion, or having exercised discretion, T's designee.

(3) *Designee*—(i) *In general.* Except as provided in paragraph (b)(3)(ii) of this section, the term *designee,* with respect to a T having discretion or having exercised discretion, means any person who is—

(A) T's agent under principles of agency law;

(B) Compensated by T for suggesting, requesting, or determining changes in the assets in the reference basket or the trading algorithm; or

(C) Selected by T to suggest, request, or determine changes in the assets in the reference basket or the trading algorithm.

(ii) *Exceptions.* A person will not be treated as compensated by T under paragraph (b)(3)(i)(B) of this section, or selected by T under paragraph (b)(3)(i)(C) of this section, as a result of:

(A) The person's position as an investment advisor, officer, or employee of an entity, such as a mutual fund, when the entity's publicly offered securities are included in the reference basket; or

(B) The person's use of, the person's payment of a licensing fee for the right to use, or the person's authority to suggest, request, or determine changes in the assets included in a widely used and publicly quoted index that is based on objective financial information or an index that tracks a broad market or a market segment.

(4) *Discretion*—(i) *In general.* Except as provided in paragraphs (b)(4)(ii) and (iii) of this section, the term *discretion* includes T's right to change, either directly or through a request to C, the assets in the reference basket or the trading algorithm, even if the terms of the transaction permit C to reject certain changes requested by T to the assets in the reference basket or the trading algorithm.

(ii) *Changes made according to rules that T cannot amend or alter.* T will not be treated as having discretion to change (either directly or through a request to C) the assets in the reference basket or the trading algorithm if—

(A) Changes in the assets in the reference basket or the trading algorithm are made according to objective instructions, operations, or calculations that are disclosed at the inception of the transaction (rules); and

(B) T does not have the right to alter or amend the rules during the term of the transaction or to deviate from the assets in the reference basket or the trading algorithm selected in accordance with the rules.

(iii) *Exception for certain rights.* T will not be treated as having the right to alter or amend the rules for purposes of paragraph (b)(4)(ii)(B) of this section solely because T has the authority to—

(A) Exercise routine judgment in the administration of the rules, which does not include deviations or alterations to the rules that are designed to improve the financial performance of the reference basket;

(B) Correct errors in the implementation of the rules or calculations made pursuant to the rules; or

(C) Make an adjustment to respond to an unanticipated event outside of T's control, such as a stock split, merger, listing or delisting, nationalization, or insolvency of a component of a basket, a disruption in the financial markets for specific assets or in a particular jurisdiction, a regulatory compliance requirement, force majeure, or any other unanticipated event of similar magnitude and significance.

(5) *Tax benefit.* The term *tax benefit* means a deferral of income into a later taxable year or a conversion of ordinary income or short-term capital gain or loss into long-term capital gain or loss.

(6) *Reference basket.* The term *reference basket* means a notional basket of assets that may include:

(i) Actively traded personal property as defined under § 1.1092(d)–1(a);

(ii) Interests in entities that trade securities, commodities, foreign currency, digital assets as defined in section 6045(g)(3)(D) of the Internal Revenue Code, or similar property;

(iii) Securities;

(iv) Commodities;

(v) Foreign currency;

(vi) Digital assets as defined in section 6045(g)(3)(D); or

(vii) Similar property (or positions in such property).

(c) *Transaction description.* A transaction is described in this paragraph (c) if—

(1) T enters into a contract with C, including a contract denominated as an option contract, notional principal contract (as defined in § 1.446–3(c)(1)(i)), forward contract, or other derivative contract, to receive a return based on the performance of a reference basket;

(2) The contract has a stated term of more than one year, or overlaps two or more of T's taxable years;

(3) T has exercised discretion to change (either directly or through a request to C) the assets in the reference basket or the trading algorithm;

(4) T's tax return for a taxable year ending on or after January 1, 2011, reflects a tax benefit with respect to the transaction; and

(5) The transaction is not described in paragraph (d) of this section.

(d) *Exceptions.* A transaction is not the same as, or substantially similar to, the transaction described in paragraph (c) of this section if it is described in any of paragraphs (d)(1) through (3) of this section.

(1) The contract is traded on a national securities exchange that is regulated by the Securities and Exchange Commission or a domestic board of trade regulated by the Commodity Futures Trading Commission, or a foreign exchange or board of trade that is subject to regulation by a comparable regulator.

(2) The contract is treated as a contingent payment debt instrument under § 1.1275–4 (including a short-term contingent payment debt instrument) or a variable rate debt instrument under § 1.1275–5.

(3) With respect to C, a transaction is not the same as, or substantially similar to, the transaction described in paragraph (c) of this section if—

(i) T represents to C in writing under penalties of perjury that none of T's tax returns for taxable years ending on or after January 1, 2011, has reflected or will reflect a tax benefit with respect to the transaction; or

(ii) C has established that T is a nonresident alien that is not engaged in a U.S. trade or business or a foreign corporation that is not engaged in a U.S. trade or business by obtaining a valid withholding certificate (W–8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals),* or W–8BEN–E, *Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting* (*Entities*) (or successor forms)) upon which it may rely under the requirements of § 1.1441–1 from T as the beneficial owner of the payments made or to be made under the basket contract, or in the case of payments made outside of the U.S. on offshore obligations, by obtaining documentary evidence described in § 1.1441–1(c)(17) upon which it is permitted to rely.

(e) *Special participation rules.* For purposes of § 1.6011–4(c)(3)(i)(A), for each year in which a transaction identified in paragraph (a) of this section is open, only the following parties are treated as participating in the listed transaction identified in this section:

(1) The taxpayer;

(2) If the taxpayer is treated as a partnership for Federal tax purposes and has one or more general partners or managing members, each general partner or managing member of the taxpayer;

(3) If the taxpayer is treated as a partnership for Federal tax purposes and does not have a general partner or managing member, each partner in the partnership;

(4) The counterparty to the contract.

(f) *Applicability date*—(1) *In general.* This section identifies transactions that are the same as, or substantially similar

to, the transactions described in paragraph (c) of this section as listed transactions for purposes of § 1.6011–4(b)(2) effective on [date of publication of final regulations in the **Federal Register**].

(2) *Obligations of participants with respect to prior periods.* Taxpayers who have filed a tax return (including an amended return) reflecting their participation in transactions described in paragraph (a) of this section prior to [date of publication of final regulations in the **Federal Register**], must disclose the transactions as required by § 1.6011–4(d) and (e) provided that the period of limitations for assessment of tax (as determined under section 6501 of the Code, including section 6501(c)) for any taxable year in which the taxpayer participated has not ended on or before [date of publication of final regulations in the **Federal Register**]. However, taxpayers who have filed a disclosure statement regarding their participation in the transaction with the Office of Tax Shelter Analysis pursuant to Notice 2015–73, 2015–46 I.R.B. 660, will be treated as having made the disclosure with respect to the transaction pursuant to the final regulations for the taxable years for which the taxpayer filed returns before [date of publication of final regulations in the **Federal Register**]. If a taxpayer described in the preceding sentence participates in the basket contract listed transaction in a taxable year for which the taxpayer files a return on or after [date of publication of final regulations in the **Federal Register**], the taxpayer must file a disclosure statement with the Office of Tax Shelter Analysis at the same time the taxpayer files its return for the first such taxable year.

(3) *Obligations of material advisors with respect to prior periods.* Material advisors defined in § 301.6111–3(b) of this chapter who have previously made a tax statement with respect to a transaction described in paragraph (a) of this section have disclosure and list maintenance obligations as described in §§ 301.6111–3 and 301.6112–1 of this chapter, respectively. Notwithstanding § 301.6111–3(b)(4)(i) and (iii) of this chapter, material advisors are required to disclose only if they have made a tax statement on or after the date that is six years before [date of publication of final regulations in the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner.

[FR Doc. 2024–14787 Filed 7–11–24; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0625; FRL–11613–01–R9]

Air Plan Revisions; California; Eastern Kern Air Pollution Control District; Tehama County Air Pollution Control District; San Diego County Air Pollution Control District Emissions Statement Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions, under the Clean Air Act (CAA or ''Act''), to portions of the California State Implementation Plan (SIP) regarding emissions statements (ES) requirements for the 2015 ozone national ambient air quality standards (NAAQS). In addition, we are proposing that the following California nonattainment areas (NAAs) meet the ES requirements for the 2015 ozone NAAQS: Tuscan Buttes, Kern County (Eastern Kern), and San Diego County. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before August 12, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2023–0625 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 (*e.g.,* audio or video) 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: Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4100 or by email at *schwenkmueller.sina@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 rules did the State submit?

The California Air Resources Board submitted rules for the the Eastern Kern Air Pollution Control District (APCD), Tehama County APCD, and San Diego County APCD portions of the California SIP.

Table 1 lists the rules submitted for approval into the SIP with the dates that the rules were adopted or revised by the local or State air agencies and submitted by the States to fulfill CAA section 182(a)(3)(B) Emissions Statements (''section 182(a)(3)(B)'') requirements.

TABLE 1—SUBMITTED RULES

Agency	Rule No.	Rule title	Amended/ adopted	Submitted	Deemed complete
Eastern Kern APCD	Rule 108.2	Emission Statement Requirements.	8/4/22	12/7/22	Complete by Operation of Law (COL) 6/7/23.
Tehama County APCD	Rule 2:20	Emission Statement	3/1/22	7/5/22	COL 1/5/23.
San Diego County APCD	Rule 19.3	Emission Information	12/9/21	3/9/22	COL 9/9/22.

Table 1 also list the dates that the EPA determined that the submittals met the completeness criteria in 40 Code of Federal Regulations (CFR) part 51, appendix V or were deemed by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V (''complete by operation of law'' or COL), which must be met before formal EPA review.

B. Are there other versions of these rules?

There is no previous version of Tehama County APCD Rule 2:20 in the SIP. We approved an earlier version of Eastern Kern APCD Rule 108.2 into the SIP on May 26, 2004 (69 FR 29880). If we take final action to approve the submitted version of Rule 108.2, it will replace the existing SIP-approved version. We approved an earlier version of San Diego APCD Rule 19.3 into the SIP on March 9, 2000 (65 FR 12472). If we take final action to approve the submitted version of Rule 19.3, it will replace the existing SIP-approved version.

C. What is the purpose of the submitted rules or rule revisions?

Under the CAA, a SIP must require stationary sources in ozone NAAs classified as ''Marginal'' or above to report annual emissions of nitrogen oxides (NO_X) and volatile organic compounds(VOCs). See CAA section 182(a)(3)(B). Whenever the EPA promulgates a new ozone NAAQS, the State and/or air district must submit a new or amended rule to ensure that the section 182(a)(3)(B) requirements are met.

Section 182(a)(3)(B)(i) requires States to submit a SIP revision that requires that owners or operators of stationary sources provide the State with a statement of actual emissions of VOCs and NO_X at least annually. Such statements must also include a certification that the information is accurate to the best knowledge of the individual certifying the statement.[1]

In lieu of submitting a new or amended rule, the State and/or air district may submit for SIP approval a certification that an existing SIP-approved rule satisfies the emissions statement requirements of CAA section 182(a)(3)(B) for the relevant ozone NAAQS. Specifically, the preamble to the EPA's ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements'' states that ''[W]here an air agency determines that an existing regulation is adequate to meet applicable nonattainment area planning requirements of CAA section 182 . . . for a revised ozone NAAQS, that air agency's SIP revision may provide a written statement certifying that determination in lieu of submitting new revised regulations.'' [2] The EPA's technical support document (TSD), which is in the docket for this rulemaking, has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rules?

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). Areas classified as Marginal nonattainment or higher are subject to the requirements of CAA section 182(a)(3)(B).

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. ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,'' 83 FR 62998 (December 6, 2018).

2. ''(Draft) Guidance on the Implementation of an Emission Statement Program,'' EPA, July 1992.

3. ''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).

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

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

B. Do the rules meet the evaluation criteria?

These rules meet CAA requirements and are consistent with relevant guidance regarding enforceability, SIP revisions, and emissions statement requirements. The TSD has more information on our evaluation.

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

The TSD includes recommendations for the next time the local agency modifies the rules or submit certifications.

D. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We are also proposing that the following 2015 ozone nonattainment areas have met CAA section 182(a)(3)(B) requirements: Kern County (Eastern Kern), CA, Tuscan Buttes, CA, San Diego, CA. We will accept comments from the public on this proposal until August 12, 2024. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

[1] Section 182(a)(3)(B)(ii) ''The State may waive the application of clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.''

[2] ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,'' 83 FR 62998 (December 6, 2018).

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 the rules described in table 1, which require sources to submit emission statements. 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 Clean Air Act. 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 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it 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 rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on 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.

List of Subjects in 40 CFR Part 52

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

Dated: July 2, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2024–15045 Filed 7–11–24; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 89, No. 134
Friday, July 12, 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 Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; 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 August 12, 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.

Rural Utilities Service

Title: 7 CFR 1783, Revolving Fund Program.

OMB Control Number: 0572–0138.

Summary of Collection: This package is being submitted under a regular clearance as a request for extension of a currently approved collection. The estimated number of applicants remains 4 based on a historical average for the program. The total burden hours are estimated to be 325 hours. On May 13, 2002, the Farm Security and Rural Investment Act of 2002 (Farm Bill) was signed into law as Public Law 107–171. Section 6002 of the Farm Bill amended the Consolidated Farm and Rural Development Act (CONACT), by adding a grant program to establish a revolving loan fund (RFP). The Secretary may make grants to qualified private, non-profit entities to establish a revolving loan fund. The loans will be made to eligible entities to finance predevelopment costs of water or wastewater projects, or short-term small capital projects not part of the regular operation and maintenance of current water and wastewater systems.

Need and Use of the Information: The information required in this collection is utilized by the Rural Development State offices and Rural Utilities Service (RUS) Water and Environmental program National Office staff to determine eligibility for the grant program and monitor performance of ongoing grants. Nonprofit organizations applying for the Revolving Fund Program grant(s) must submit an application, which includes an application form, narrative proposal (work plan), various other forms, certifications, and supplemental information. The Rural Development State Offices and the RUS National Office staff will use the information collected to determine applicant eligibility, project feasibility, and the applicant's ability to meet the grant and regulatory requirements. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, or hindrances in making grant(s) authorized by the Revolving Fund Program.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 325.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–15358 Filed 7–11–24; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 8, 2024.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by August 12, 2024. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such

persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: 2024 Census of Horticultural Specialties.

OMB Control Number: 0535–0236.

Summary of Collection: The census of horticultural specialties is one of a series of census special studies for the census of agriculture which provides more detailed statistics relating to a specific subject. The census of horticultural specialties is an integral part of the 2022 Census of Agriculture and is conducted under the authority of the Census of Agriculture Act of 1997 (Pub. L. 105–113). The law requires that the Secretary of Agriculture conduct a census of agriculture in 1998 and every fifth year following 1998. The Census of Horticultural Specialties has been conducted periodically since 1898 to show how the industry has changed over time. Since 1950 it has been conducted approximately every 10 years. Growing data needs to make policy decisions concerning the horticulture industry have prompted a request from the Secretary of Agriculture and Congress to conduct this survey every 5 years beginning with the 2014 survey as a follow-on to the Census of Agriculture. It is the only source of detailed and consistent data on horticultural crop production and sales by type of plant at both State and national levels. The horticultural specialties census includes operations growing and selling $10,000 or more of horticultural specialty crops. The sampling of small operations with sales between $1,000 and $10,000 is used as an indicator of how many small operations have increased their sales since the 2022 Census of Agriculture was conducted.

Need and Use of the Information: The primary objective of the horticultural specialties census is to obtain a comprehensive and detailed picture of the horticultural sector of the economy. It is the only source of detailed production and sales data at the national level. The continuation of this census will allow for bench marking of changes to the industry. The census of horticultural specialties will include statistics on number and value of plants grown and sold, the value of land, buildings, machinery and equipment, selected production expenses, marketing channels, hired labor, area used for production, and type of structure. Without the census of horticultural specialties, government policy makers and planners would lack valuable information needed to accomplish their missions. Instead, they would have to rely on assumptions and guess work to determine policy.

This is a reinstatement with change, of the Census of Horticultural Specialties survey to be conducted as a follow-on survey to the 2022 Census of Agriculture.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 40,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 51,677.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–15349 Filed 7–11–24; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Forest Service

Superior National Forest; Minnesota; Superior National Forest School Trust Land Exchange Project; Withdrawal of Draft Environmental Impact Statement

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; withdrawal.

SUMMARY: The Superior National Forest is withdrawing its draft environmental impact statement (EIS) for the Superior National Forest School Trust Land Exchange Project. The Superior National Forest's decision to withdraw the draft EIS is based on several issues that arose with the original exchange. Through consideration of public comments and consultation from local Tribes, a variety of viewpoints on the exchange proposal were considered. These considerations informed a decision by the State of Minnesota to withdraw its request for a land exchange. Because the State of Minnesota has withdrawn their request, the draft EIS is being canceled.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be directed to Superior National Forest Supervisor, Thomas Hall, by phone at 218–626–4302 or by email at *thomas.hall@usda.gov.* Individuals who use telecommunication devices for the deaf or hard of hearing may call the Federal Information Relay Service at 800–877–8339, 24 hours a day, every day of the year, including holidays. For more information, see the project website at *https://www.fs.usda.gov/project/superior/?project=45943.*

SUPPLEMENTARY INFORMATION: The original notice of intent was published in the **Federal Register** on August 28, 2015 (80 FR 52245), and the notice of availability for the draft EIS was published in the **Federal Register** on August 11, 2017 (82 FR 37583).

Dated: July 3, 2024.

Keith Lannom,

Associate Deputy Chief, National Forest System.

[FR Doc. 2024–15122 Filed 7–11–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

[Docket Number: 240708–0186]

X–RIN 0607–XC078

American Community Survey Timeline for Implementing Updated 2024 Race and Ethnicity Data Standards

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice; request for public comment.

SUMMARY: The American Community Survey (ACS) collects race and ethnicity data from respondents according to the standards outlined by the U.S. Office of Management and Budget (OMB) in Statistical Policy Directive No.15 (SPD 15). In March 2024, OMB issued updates to SPD 15 that must be implemented into all Federal information collections that collect data on race and ethnicity as soon as possible but no later than March 28, 2029. The Department of Commerce invites the public to comment on the timeline for the adoption of these updated standards for the ACS.

DATES: To ensure consideration, comments must be received on or before August 12, 2024.

ADDRESSES: Interested persons are invited to submit written comments by email to *acso.pra@census.gov.* Please reference ACS SPD 15 in the subject line of your comments. Comments may also be submitted through the Federal e-Rulemaking Portal at *www.regulations.gov* under the docket established for this request for comment, USBC–2024–0020. Click the ''Comment Now!'' icon, complete the require fields, and enter or attach your comments. All comments received are part of the public record. No comments will be posted to *https://www.regulations.gov* for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily

submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Nicole Butler, ADC for Data Collection, U.S. Census Bureau, (301) 763–3928, *nicole.butler@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The ACS is an ongoing monthly survey that collects detailed housing and socioeconomic data from a sample of about 3.54 million addresses in the United States and about 36,000 addresses in Puerto Rico, where it is known as the Puerto Rico Community Survey (PRCS), each year. The ACS also collects detailed socioeconomic data from about 170,900 residents living in group quarters (GQ) facilities in the United States and Puerto Rico. Resulting tabulations from this data collection are provided every year. The ACS allows the Census Bureau to provide timely and relevant housing and socioeconomic statistics, even for low levels of geography.

The Census Bureau developed the ACS to collect and update demographic, social, economic, and housing data every year that are essentially the same as the ''long-form'' data that the Census Bureau formerly collected once a decade as part of the decennial census. Federal and State government agencies use such data to evaluate and manage Federal programs and to distribute funding for various programs that include food stamp benefits, transportation dollars, and housing grants. State, county, Tribal, and community governments, nonprofit organizations, businesses, and the general public use information such as housing quality, income distribution, journey-to-work patterns, immigration data, and regional age distributions for decision-making and program evaluation. The ACS is the only source of comparable data about social, economic, housing, and demographic characteristics for small areas and small subpopulations across the nation and in Puerto Rico.

The ACS program provides estimates annually for all states and all medium and large cities, counties, and metropolitan areas. For smaller areas and population groups, it takes five years to accumulate enough data to provide reliable estimates. Detailed, statistical portraits of the social, economic, housing, and demographic characteristics for every community in the nation are available each year through one-year and five-year ACS products.

The ACS collects detailed socioeconomic data on over 40 topics, including race and ethnicity. The list of topics and questions can be found here: *https://www.census.gov/acs/www/about/why-we-ask-each-question/.*

Currently, race and ethnicity data are collected and tabulated based on OMB's 1997 Statistical Policy Directive No 15 (SPD 15) on Federal race and ethnicity data standards. The standards provide a common language to promote uniformity and comparability for data on race and ethnicity across Federal data collections. OMB's 2024 SPD 15 updates, consistent with OMB's established processes, were the result of a review by a Federal Interagency Technical Working Group, composed of Federal career staff, that provided recommendations to the Chief Statistician of the United States. These recommendations were based on extensive research conducted by Federal agencies and a robust stakeholder engagement and public comment process. OMB's decisions closely follow the evidence-based recommendations of the Working Group and include revisions to the guidance for measuring, collecting, and tabulating information on race and ethnicity, including:

- Collecting race and ethnicity information using one combined question,
- Adding Middle Eastern or North African as a new minimum category,
- Requiring the collection of detailed race and ethnicity categories as a default,
- Updating terminology, definitions, and question wording, and
- Guidance on data collection and editing procedures and presentation of race and ethnicity data.

The Census Bureau is now focused on developing plans to implement the 2024 SPD 15 in its census and survey programs, including the ACS.

II. Proposal

The Census Bureau has evaluated the practicability of implementing the updated race and ethnicity data standards into either the 2026 ACS or the 2027 ACS. Implementing the 2024 SPD 15 in the ACS as quickly as possible is essential. As outlined below, the Bureau's assessment is that implementation in the full suite of ACS data products will be targeted for 2027, with dissemination of data products to then begin in 2028.

Apart and independently from a 2027 ACS implementation of 2024 SPD 15, the Census Bureau is also considering utilizing bridging techniques, or crosswalking, to produce a limited set of experimental data products earlier than the schedule outlined below. If deemed feasible, these early experimental data products would likely be a subset of tables from the 5-year data products that would reflect data from 2022–2026, crosswalked with the updated race and ethnicity data standards.

With regard to the 2024 SPD 15 implementation, the Census Bureau expects the positive impacts of updated race and ethnicity data that align with the revised standards will go far in improving the available information about the demographic makeup and socioeconomic characteristics of our country and our diverse communities. In order to realize the positive impact of more accurate race and ethnicity data, the quality and integrity of the ACS implementation must be ensured. The Census Bureau has conducted an assessment of what would be necessary to implement the 2024 SPD 15 in the ACS in either: (a) the 2026 ACS with dissemination of data products to then begin in 2027, or (b) the 2027 ACS with dissemination of data products to then begin in 2028. This assessment considered multiple factors such as:

- The amount of additional time needed for ACS activities to ensure accurate implementation. The most challenging tasks include revising and testing procedures for processing data and developing updated data products.
- Necessary scope and schedule changes for competing ongoing high-priority projects. The Census Bureau has a number of critical data modernization projects underway that are expected to use many of the same resources needed for implementation of the 2024 SPD 15 in the ACS.
- The need and timing for additional expert resources. Implementing the 2024 SPD 15 in the ACS requires the availability of dedicated resources with subject matter expertise.
- When and how to obtain external stakeholder feedback on Census Bureau implementation plans. Transparent engagement with stakeholders is highly valued and will inform deliberations.

Based on the current assessment of cost, risk, and benefit, the Census Bureau proposes implementing the updated race and ethnicity data standards into the 2027 ACS data collection cycle. Implementing the 2024 SPD 15 as quickly as possible must be balanced against the risks of major

errors. Information gathered through this request for public comment will allow the Census Bureau to update this assessment to include additional costs, risks, and benefits faced by non-Federal users of ACS data. Implementing the updated standards in 2027 would mean that the first ACS 1-year estimates under the updated standards would be released in September 2028 for the 2027 ACS 1-year data. The first 5-year estimates produced solely using the data collected under the 2024 SPD 15 would be available in the 2027–2031 ACS 5-year data, scheduled for release in December 2032. Should a determination be made to instead implement the updated standards in 2026, these release dates would be moved up by one year. For example, the first ACS 1-year data using the updated standards would be released in September 2027, and the first ACS 5-year estimates would be released for the 2026–2030 ACS data in December 2031. Note that this alternative schedule would align the 5-year ACS estimates with the 2030 Decennial Census data.

Once the ACS program begins collecting data using the updated race and ethnicity data standards, the data produced in the 5-year estimates will be crosswalked to the updated race and ethnicity groups until there are five years of data collected in the updated format. For example, the 2023–2027 ACS 5-year estimates would contain data collected in years 2023 through 2026 using the 1997 SPD 15 and data collected in 2027 using the 2024 SPD 15. In those 2023–2027 ACS 5-year estimates, data collected in 2023 through 2026 would be crosswalked to the updated race and ethnicity categories, and data products would comply with the 2024 SPD 15. Crosswalking procedures would be required for all data collected under the 1997 SPD 15 for each 5-year file produced until there are a full 5 years of data available that have been collected under the 2024 SPD 15, as follows:

- 2023–2027 5-Year Estimates: Crosswalking required for years 2023, 2024, 2025, 2026
- 2024–2028 5-Year Estimates: Crosswalking required for years 2024, 2025, 2026
- 2025–2029 5-Year Estimates: Crosswalking required for years 2025, 2026
- 2026–2030 5-Year Estimates: Crosswalking required for years 2026
- 2027–2031 5-Year Estimates: No crosswalking required

This data release schedule will impact all data products that are cross-tabulated by race and ethnicity.

III. Request for Comments

Pursuant to the terms of clearance for the 2025 ACS, we are soliciting public comments on the timeline to implement the updated race and ethnicity standards into the ACS. We are interested in feedback about the impact this update will have on data users, researchers, and community organizations if it is implemented in either the 2026 ACS or the 2027 ACS in light of our assessment of risks to data quality.

Comments you submit in response to this notice are a matter of public record. 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.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: July 9, 2024.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2024–15336 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Census Household Panel Topical 10, Topical 11, and Topical 12 Operations

On May 14, 2024, the Department of Commerce received clearance from the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 to conduct the seventh, eighth, and ninth Census Household Panel topical operations (OMB No. 0607–1025, Exp. 6/30/26). The Census Household Panel is designed to ensure availability of frequent data collection for nationwide estimates on a variety of topics for a variety of subgroups of the population. This notice serves to inform of the Department's intent to request clearance from OMB to conduct topical operations 10, 11, and 12.

The Topical 10 (August) survey will include a roster experiment, and content from the Household Pulse Survey (HPS) to run in parallel with the HPS Phase 4.2. The September survey (Topical 11) will include a test of the Survey of Income and Program Participation's (SIPP) labor force, assets, and homeownership items. For the October topical questionnaire (Topical 12), Household Pulse Survey content will be repeated using longitudinal design without the roster experiment. The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite 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. Public comments were previously requested via the **Federal Register** on February 6, 2023, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Census Household Panel Topical 10, Topical 11, and Topical 12 Operations.

OMB Control Number: 0607–1025.

Form Number(s): Not yet determined.

Type of Request: Request for a Revision of a Currently Approved Collection.

Number of Respondents: 10,354 panel members.

Average Hours per Response: 4 hours per year (20 minutes for monthly collection).

Burden Hours: 41,375.

Needs and Uses: The Census Household Panel is a probability-based nationwide nationally-representative survey panel designed to test the methods to collect data on a variety of topics of interest, and for conducting experimentation on alternative question wording and methodological approaches. The goal of the Census Household Panel is to ensure availability of frequent data collection for nationwide estimates on a variety of topics and a variety of subgroups of the population, meeting standards for transparent quality reporting of the Federal Statistical Agencies and the Office of Management and Budget (OMB).

Panelists and households selected for the Panel were recruited from the

Census Bureau's gold standard Master Address File. This ensures the Panel is rooted in this rigorously developed and maintained frame and available for linkage to administrative records securely maintained and curated by the Census Bureau. Invitations to complete the monthly surveys will be sent via email and SMS messages. Questionnaires will be mainly internet self-response. The Panel will maintain representativeness by allowing respondents who do not use the internet to respond via computer-assisted telephone interviewing (CATI). All panelists will receive an incentive for each complete questionnaire. Periodic replenishment samples will maintain representativeness and panelists will be replaced after a period of three years.

Affected Public: Individuals or Households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, sections 141, 182 and 193.

This information collection request may be viewed at *https://www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1025.

Mary Reuling Lenaiyasa,

Paperwork Reduction Act Program Manager, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2024–15347 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regional Economic Development Data Collection Instrument

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite 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.

ADDRESSES: Interested persons are invited to submit written comments via email to Hallie Davis, Tech Hubs Program Analyst, Economic Development Administration, at *HDavis1@eda.gov* or *PRAcomments@doc.gov.* 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 Tech Hubs, Economic Development Administration, at *TechHubs@eda.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Economic Development Administration (EDA) leads the Federal economic development agenda by promoting innovation and competitiveness, and preparing American regions for growth and success in the worldwide economy. Guided by the basic principle that sustainable economic development should be driven locally, EDA works directly with communities and regions to help them build the capacity for economic development based on local business conditions and needs. Section 28 of the Stevenson-Wydler Technology Innovation Act of 1980 (Regional Technology and Innovation Hub Program (15 U.S.C. 3722a) is the legal authority under which EDA awards financial assistance and designee status under the Fiscal Year (FY) 23 Regional Technology and Innovation Hub Program (''Tech Hubs''). Under Tech Hubs, EDA seeks to strengthen U.S. economic and national security through place-based investments in regions with the assets, resources, capacity, and potential to become globally competitive, within approximately ten years, in the technologies and industries of the future—and for those industries, companies, and the good jobs they create to start, grow, and remain in the U.S. in order to support the growth and modernization of U.S. manufacturing, improve commercialization of the domestic production of innovative research, and strengthen U.S. economic and national security. Tech Hubs is a two-phase program: in Phase 1, EDA funded Strategy Development grants and designated 31 regions as Tech Hubs. In Phase 2, designated Tech Hubs are eligible to compete for funding for implementation projects. Further information on Tech Hubs can be found at *www.eda.gov.*

Public comments were previously requested via the **Federal Register** on April 19, 2024 during a 60-day comment period (89 FR 28732). This notice allows for an additional 30 days for public comments. The purpose of this notice is to seek comments from the public and other Federal agencies on a request for a new information collection for designated Tech Hubs to help ensure that Tech Hub investments are evidence-based, data-driven, and accountable to participants and the public.

Lead consortium members of the 31 designated Tech Hubs will submit identified program metrics and qualitative information to help assess specific program objectives. A one-time questionnaire will be sent to each of the Tech Hubs consortium leads, which will gather the relevant data and stories for each of the 31 Tech Hubs designee consortia, resulting in consortia regional impact evaluation, resources, and tools for regional economic development decision-makers. The 31 designated Tech Hubs will provide information on the following objectives:

(1) Accelerating technology innovation, commercialization, demonstration, and deployment, which may include information on the number of patents filed, licensing agreements, approximate levels of research and development expenditures, adoption of new technologies, and acceleration of current technologies.

(2) Enabling infrastructure and advancing manufacturing, which may include information on specific facility information.

(3) Integrating an agile workforce system, which may include information on skills needed by employers, available training, hard-to-fill vacancies, policies and strategies for worker retention, and strategies for engagement with underserved workers.

(4) Increasing business and entrepreneurial capacity, which may include assessing employer competitiveness, relationships with Federal, State, and local entities, current partnerships, and information about sources of capital to start and grow businesses and to adopt innovative approaches and technologies.

(5) Strengthening national security, which may include information on procurement processes, critical inputs, sourcing, supply chains, and strategic implications of technologies and their use cases.

Tech Hubs designees must submit this data one time to provide a baseline status of the Tech Hub and to help assess the results of designee status as well as potential future federal investments.

EDA is particularly interested in public comment on how the proposed data collection will support the assessment of job quality, including in ways that rely on pairing this information administrative data for analysis and other ways to minimize burden, or if alternative information should be considered.

II. Method of Collection

Data will be collected electronically.

III. Data

OMB Control Number: None: new information collection.

Form Number(s): None: New information collection.

Type of Review: Regular submission: new information collection.

Affected Public: Tech Hubs designees, which may include a(n): Institution of higher education, including Historically Black Colleges and Universities, Tribal Colleges or Universities, and Minority-Serving Institutions; State, territorial, local or Tribal governments or other political subdivisions of a State, including State and local agencies, or a consortium thereof; Industry groups or firms in relevant technology, innovation, or manufacturing sectors; Economic development organizations or similar entities that are focused primarily on improving science, technology, innovation, entrepreneurship, or access to capital; Labor organizations or workforce training organizations, which may include State and local workforce development boards; Economic development entities with relevant expertise, including a district organization; Organizations that contribute to increasing the participation of underserved populations in science, technology, innovation, and entrepreneurship; Venture development organizations; Organizations that promote local economic stability, high wage domestic jobs, and broad-based economic opportunities, such as employee ownership membership associations and State or local employee ownerships and cooperative development centers, financial institutions and investment funds, including community development financial institutions and minority depository institutions; Elementary schools and secondary schools, including area career and technical education schools; National laboratories; Federal laboratories; Manufacturing extension centers; Manufacturing U.S.A. Institutes; Transportation planning organizations; A cooperative extension services; Organizations that represent the perspectives of underserved communities in economic development initiatives; and Institutions receiving an award under the National Science Foundation's (NSF) Regional Innovation Engines Program.

Preliminary Estimated Number of Respondents: Consortium Lead Members/Tech Hubs Designee Consortia: 31 respondents, responding once.

Estimated Time Per Response: Consortium Lead Members/Tech Hubs Designee Consortia: 3 hours.

Estimated Total Annual Burden Hours: 93 hours.

Type of respondent (one time)	Number of respondents	Hours per response	Number of responses per year	Total estimated time (hours)
Lead Consortium Members/Tech Hubs Designee Consortia	31	3	1 (Once)	93
Total	31	3	1	93

Estimated Total Annual Cost to Public: $ 5,769.72 (cost assumes application of U.S. Bureau of Labor Statistics second quarter 2022 mean hourly employer costs for employee compensation for professional and related occupations of $62.04).

Respondent's Obligation: Mandatory for Consortium Lead Members.

Legal Authority: Stevenson Wydler Technology Innovation Act of 1980, section 28 (15 U.S.C. 3722a).

IV. Request for Comments

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

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.''

Oliver Wise,

Chief Data Officer and Acting Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–15183 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–807]

Circular Welded Carbon-Quality Steel Pipe From the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers/exporters of circular welded carbon-quality steel pipe (CWP) made sales of subject merchandise at less than normal value (NV) during the period of review (POR), December 1, 2021, through November 30, 2022.

DATES: Applicable July 12, 2024.

FOR FURTHER INFORMATION CONTACT: Rebecca Janz or Sofia Pedrelli, 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) 482–2972 or (202) 482–4301, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 2024, Commerce published in the **Federal Register** the preliminary results of the 2021–2022 administrative review [1] of the antidumping duty order on CWP from the United Arab Emirates (UAE).[2] The review covers seven companies, including two mandatory respondents, Conares Metal Supply Limited (Conares) and Universal Tube and Plastic Industries, Ltd./THL Tube and Pipe Industries LLC/KHK Scaffolding and Formwork LLC (collectively, Universal), for individual examination.[3]

We invited parties to comment on the *Preliminary Results.*[4] On February 14, 2024, we received case briefs from Conares and Universal; we did not receive any rebuttal briefs.[5] On April 24, 2024, we extended the deadline for the final results until July 3, 2024.[6] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[7] Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the *Order* are CWP from the UAE. A complete description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case briefs filed by interested parties in this administrative review are addressed in the Issues and Decision Memorandum and are listed in an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, Commerce made certain changes to the preliminary weighted-average dumping margin calculations for Conares, Universal, and the non-examined companies for the final results of review.[8]

Rates for Non-Examined Companies

The Act and Commerce's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value (LTFV) investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis* (*i.e.,* less than 0.5 percent), or determined entirely on the basis of facts available.

For the final results, Commerce calculated weighted-average dumping margins for Conares and Universal that are not zero, *de minimis,* or based entirely on facts otherwise available. Accordingly, Commerce has continued to calculate the rate for companies not selected for individual examination using a weighted average of the weighted-average dumping margins calculated for Conares and Universal, weighted by each respondent's publicly-ranged total U.S. sales value.[9]

Final Results of Administrative Review

As a result of this review, we determine that the following estimated weighted-average dumping margins exist for the period December 1, 2021, through November 30, 2022:

[1] *See Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,* 89 FR 899 (January 8, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, and the United Arab Emirates: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders,* 81 FR 91906 (December 19, 2016) (*Order*).

[3] Commerce previously determined that Universal is a single entity consisting of the following three producers/exporters of subject merchandise: Universal Tube and Plastic Industries, Ltd.; KHK Scaffolding and Formwork LLC; and Universal Tube and Pipe Industries LLC. *See Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value,* 81 FR 75030 (October 28, 2016), and accompanying Issues and Decision Memorandum. Additionally, we previously determined that THL Tube and Pipe Industries LLC is the successor-in-interest to Universal Tube and Pipe Industries LLC . *See Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 84 FR 44845 (August 27, 2019). Because no information on the record of this review contradicts these findings, we continue to treat these companies as a single entity.

[4] *See Preliminary Results.*

[5] *See* Conares' Letter, ''Case Brief,'' dated February 14, 2024; and Universal's Letter, ''Case Brief,'' dated February 14, 2024.

[6] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated April 24, 2024.

[7] *See* Memorandum, ''Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates; 2021–2022,'' dated concurrently with, and hereby adopted by, these results (Issues and Decision Memorandum).

[8] *See* Issues and Decision Memorandum.

[9] When Commerce's individual examination of respondents is limited to two respondents, Commerce normally calculates: (A) a weighted average of the weighted-average dumping margins calculated for the individually-examined respondents; (B) a simple average of the weighted-average dumping margins calculated for the individually-examined respondents; and (C) a weighted average of the weighted-average dumping margins calculated for the individually-examined respondents using each company's publicly-ranged U.S. sales quantities of subject merchandise. Commerce then compares then compares (B) and (C) to (A) and selects either the (B) or (C) rate based on the rate closest to (A) as the most appropriate rate for companies not selected for individual examination, as using the (A) rate would result in the disclosure of business proprietary information. *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). In this review, Commerce based the rate for companies not selected for individual examination on the publicly-ranged sales data of the mandatory respondents. For an analysis of the data, *see* Memorandum, ''Calculation of the Review-Specific Rate for Non-Selected Companies for the Final Results,'' dated concurrently with this notice.

Producer/exporter	Weighted-average dumping margin (percent)
Conares Metal Supply Limited	0.90
Universal Tube and Plastic Industries, Ltd; THL Tube and Pipe Industries LLC; KHK Scaffolding and Formwork LLC	1.00
Review-Specific Average Rate Applicable to the Following Companies	
Ajmal Steel Tubes & Pipes Ind., L.L.C	0.98
K.D. Industries Inc	0.98
TSI Metal Industries L.L.C	0.98

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to interested parties within five days after public announcement of the final results 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).

Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), because Conares and Universal reported the entered value of their U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by each individually examined respondent for which the producer did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the LTFV investigation (*i.e.,* 5.95 percent) [10] if there is no rate for the intermediate company(ies) involved in the transaction.[11]

For the companies identified above that were not selected for individual examination, we will instruct CBP to liquidate entries at the rate determined in these final results of review.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication 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 each company listed above will be equal to the weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by producers or exporters 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, a prior review, or the original LTFV investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in 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 5.95 percent, the all-others rate established in the LTFV investigation for this proceeding.[12] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 3, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[10] *See Order.*

[11] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[12] *Id.*

[FR Doc. 2024–15330 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–105]

Carbon and Alloy Steel Threaded Rod From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain producers and exporters of carbon and alloy steel threaded rod (steel threaded rod) from the People's Republic of China (China) received countervailable subsidies during the period of review (POR) January 1, 2022, through December 31, 2022.

DATES: Applicable July 12, 2024.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3683 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 2020, Commerce published in the **Federal Register** the countervailing duty order on steel threaded rod from China.[1] On April 3, 2024, Commerce published the preliminary results of the 2022 administrative review of the *Order* and invited comments from interested parties.[2] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3]

Scope of the Order

The product covered by the *Order* is steel threaded rod from China. For a full description of the scope of the O*rder, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised by Ningbo Zhenghai Yongding Fastener Co., Ltd., in its case brief, are addressed in the Issues and Decision Memorandum.[4] A list of the issues raised is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of comments received and the evidence on the record, we made certain changes to the calculations of Ningbo Zhenghai Yongding Fastener Co., Ltd.'s benefits for three programs: (1) provision of wire rod at less than adequate remuneration (LTAR); (2) provision of steel bar at LTAR; and (3) provision of electricity at LTAR. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we determine that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying Commerce's conclusions, including our reliance, in part, on facts otherwise available with adverse inferences pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Final Results of Review

We find the following net countervailable subsidy rates for the period January 1, 2022, through December 31, 2022:

Company	Subsidy Rate (percent *ad valorem*)
Ningbo Zhenghai Yongding Fastener Co., Ltd.[6]	7.66

Disclosure

We intend to disclose the calculations performed for these final results of review within five days after the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Assessment

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review for Ningbo Zhenghai Yongding Fastener Co., Ltd. at the applicable *ad valorem* assessment rate listed. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after 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

In accordance with section 751(a)(1) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for the companies listed above for shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the

[1] *See Carbon and Alloy Steel Threaded Rod from India and the People's Republic of China: Countervailing Duty Orders,* 85 FR 19927 (April 9, 2020) (*Order*).

[2] *See Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review; 2022,* 89 FR 22999 (April 3, 2024) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Countervailing Duty Order on Carbon and Alloy Steel Threaded Rod from the People's Republic of China; 2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] No other interested parties filed a case or rebuttal brief.

[5] *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.

[6] As discussed in the *Preliminary Results* PDM, Commerce has found Ningbo Yongzan Machinery Parts Co., Ltd. to be cross-owned with Ningbo Zhenghai Yongding Fastener Co., Ltd.

all-others rate (*i.e.,* 41.17 percent) [7] or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: July 8, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2024–15332 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE099]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits and permit amendments.

SUMMARY: Notice is hereby given that permits or permit amendments have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to *NMFS.Pr1Comments@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman (Permit No. 27973), Jennifer Skidmore (Permit No. 27408), Shasta McClenahan, Ph.D. (Permit No. 27503), Sara Young (Permit Nos. 22289–01 and 27499), Erin Markin, Ph.D. (Permit No. 26727–01), and Carrie Hubard (Permit No. 26593–01); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to *https://www.federalregister.gov* and search on the permit number provided in table 1 below.

TABLE 1—ISSUED PERMITS AND PERMIT AMENDMENTS

Permit No.	RTID	Applicant	Previous **Federal Register** Notice	Issuance date
22289–01	0648–XG913	Alaska Fisheries Science Center's Marine Mammal Laboratory (MML), 7600 Sand Point Way NE, Seattle, WA 98115 (Responsible Party: John Bengtson).	84 FR 34371, July 18, 2019	June 21, 2019.
26593–01	0648–XD551	Adam Pack, Ph.D., University of Hawaii at Hilo, 200 West Kawili Street, Hilo, HI 96720.	88 FR 82340, November 24, 2023	June 24, 2024.
26727–01	0648–XC758	Aaron Lynton, 986 Kupulau Drive, Kihei, HI 96853.	88 FR 8408, February 9, 2023	May 6, 2024.
27408	0648–XD710	Alaska Sea Life Center, P.O. Box 1329, 301 Railway Avenue, Seward, AK 99664 (Responsible Party: Wei Ying Wong, Ph.D.).	89 FR 8171, February 6, 2024	June 17, 2024.
27499	0648–XD710	Alaska Fisheries Science Center's MML, 7600 Sand Point Way NE, Seattle, WA 98115 (Responsible Party: John Bengston).	89 FR 8171, February 6, 2024	June 17, 2024.
27503	0648–XD710	Alaska Department of Fish and Game, P.O. Box 25526, Juneau, AK 99802 (Responsible Party: Michael Rehberg).	89 FR 8171, February 6, 2024	June 17, 2024.
27973	0648–XD829	Texas A&M University-Corpus Christi, Tidal Hall 231, Corpus Christi, TX 78412 (Responsible Party: Dara Orbach, Ph.D.).	89 FR 22127, March 29, 2024	June 6, 2024.

For permit Nos. 26593–01, 26727–01, and 27973, in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment (EA) or environmental impact statement (EIS).

For Permit Nos. 22289–01, 27408, 27499, and 27503, a determination was made that the activities authorized are

[7] *See Order,* 85 FR at 19928.

consistent with the Preferred Alternative in the Final Programmatic EIS for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007). A supplemental EA (NMFS 2014) was prepared for the addition of unmanned aerial surveys to the suite of research activities analyzed under the EIS and concluded that issuance of the permits would not have a significant adverse impact on the human environment. Environmental review memos were prepared to summarize these findings.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Authority: The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: July 8, 2024.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–15350 Filed 7–11–24; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes product(s) and service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* August 11, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 6/7/2024, the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) published an initial notice of proposed additions to the Procurement List (89 FR 48599). The Committee determined that the service listed below is suitable for procurement by the Federal Government and has added this service to the Procurement List as a mandatory purchase for contracting activity listed. In accordance with 41 CFR 51–5.3(b), the mandatory purchase requirement is limited to contracting activity at location listed, and in accordance with 41 CFR 51–5.2, the Committee has authorized the listed NPA as the authorized source of supply.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service(s) to the Government.

2. The action will result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Custodial and Grounds Maintenance Services
Mandatory for: Federal Aviation Administration, Atlanta ARTCC, Hampton, GA and Atlanta TRACON, Peachtree City, GA
Authorized Source of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

Deletions

On 5/31/2024 (89 FR 47135) and 6/7/2024 (89 FR 48599), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 8920–01–E62–4281—Rice, Long Grain, Parboiled, 6/10 lb. Pkgs.
Authorized Source of Supply: VisionCorps, Lancaster, PA
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Service(s)

Service Type: Custodial service
Mandatory for: NOAA, National Weather Service, 32 Dawes Drive, Johnson City, NY
Authorized Source of Supply: Human Technologies Corporation, Utica, NY
Contracting Activity: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPT OF COMMERCE NOAA

Service Type: Mailroom Operation
Mandatory for: U.S. Geological Survey: Denver Federal Center
Authorized Source of Supply: Bayaud Enterprises, Inc., Denver, CO
Contracting Activity: GEOLOGICAL SURVEY, OFFICE OF ACQUISITION

AND GRANTS—DENVER

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–15317 Filed 7–11–24; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: August 11, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7520–01–377–9533—Cord Connector/ Rotator, Telephone, Detangler, Clear
Authorized Source of Supply: Bestwork Industries for the Blind, Inc, Cherry Hill, NJ
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7530–00–286–4337—Paper, Loose-Leaf, Ruled, White, 8½″ x 11″
7530–00–286–4338—Paper, Loose-Leaf, Ruled, White, 9½″ x 6″
7530–00–286–6366—Paper, Loose-Leaf, Ruled, White, 6¾″ x 3¾″
Authorized Source of Supply: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7510–00–782–6274—Envelope, Transparent, 4½″ x 11¼″
Authorized Source of Supply: Newview Oklahoma, Inc, Oklahoma City, OK
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7510–00–782–6274—Envelope, Transparent, 4½″ x 11¼″
Authorized Source of Supply: Winston-Salem Industries for the Blind, Inc, Winston-Salem, NC
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
7930–00–NIB–0761—Glass Cleaner, Biobased, Heavy Duty, Spray Pump Bottle, 16 oz, EA/1
Authorized Source of Supply: Lighthouse for the Blind of Houston, Houston, TX
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Service(s)

Service Type: Document Destruction
Mandatory for: NARA—Pacific Alaska Region: 6125 Sand Point Way, NE, Seattle, WA
Authorized Source of Supply: Northwest Center, Seattle, WA
Contracting Activity: NATIONAL ARCHIVES AND RECORDS ADMINISTRATION, NARA FACILITIES

Service Type: Janitorial/Custodial Service
Mandatory for: National Oceanic & Atmospheric Administration, National Weather Service Office, Except Communication & Electrical Room, 500 Airport Blvd., #115, Lakes Charles, LA
Contracting Activity: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, WESTERN ACQUISITION DIVISION—BOULDER

Service Type: Janitorial Service
Mandatory for: Federal Aviation Administration, Norfolk Air Traffic Control Tower, 1245 Miller Store Road, Virginia Beach, VA and Patrick Henry Field Air Traffic Control Tower, Newport News, VA
Authorized Source of Supply: Portco, Inc., Portsmouth, VA
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

Service Type: Shelf Stocking, Custodial & Warehousing
Mandatory for: Defense Commissary Agency, Kaneohe Bay Marine Corps Base Commissary, MCBH Kaneohe Bay, HI
Authorized Source of Supply: Trace, Inc., Boise, ID
Contracting Activity: DEFENSE COMMISSARY AGENCY (DECA), DEFENSE COMMISSARY AGENCY

Service Type: Shelf Stocking, Custodial & Warehousing
Mandatory for: U.S. Coast Guard Support Center, Kodiak, AK
Designated Source of Supply: MQC Enterprises, Inc., Anchorage, AK
Contracting Activity: DEFENSE COMMISSARY AGENCY (DECA), DEFENSE COMMISSARY AGENCY

Service Type: Recycling Service
Mandatory for: US Air Force, Laughlin Air Force Base, 251 4th Street, Laughlin AFB, TX
Authorized Source of Supply: Goodwill Industries of San Antonio Contract Services, San Antonio, TX
Contracting Activity: DEPT OF THE AIR FORCE, FA3099 47 CONS–CC

Service Type: Food Service Attendant
Mandatory for: Wisconsin Air National Guard, 115th Fighter Wing, Building 500, Truax Field, Madison, WI
Contracting Activity: DEPT OF THE ARMY, W7N8 USPFO ACTIVITY WI ARNG

Service Type: Shelf Stocking & Custodial
Mandatory for: Defense Commissary Agency, Fort Wainwright Commissary/CDC, Fort Wainwright, AK
Authorized Source of Supply: MQC Enterprises, Inc., Anchorage, AK
Contracting Activity: DEFENSE COMMISSARY AGENCY (DECA), DEFENSE COMMISSARY AGENCY

Service Type: Recycling Service
Mandatory for: US Air Force, Robins Air Force Base, 215 Page Road, Robins AFB, GA
Contracting Activity: DEPT OF THE AIR FORCE, FA8501 AFSC PZIO

Service Type: Food Service Attendant
Mandatory for: US Air Force, Iowa Air National Guard, 3100 McKinley Avenue, Des Moines, IA
Contracting Activity: DEPT OF THE ARMY, W7M8 USPFO ACTIVITY IA ARNG

Service Type: Recycling Service
Mandatory for: US Air Force, Dobbins Air Reserve Base, 1538 Atlantic Avenue, Dobbins ARB, GA
Authorized Source of Supply: Nobis Enterprises, Inc., Marietta, GA
Contracting Activity: DEPT OF THE AIR FORCE, FA6703 94 LG LGC

Service Type: Painting Service
Mandatory for: US Air Force, Travis Air Force Base, 101 Bodin Circle, Travis Air Force Base, CA
Authorized Source of Supply: PRIDE Industries, Roseville, CA
Contracting Activity: DEPT OF THE AIR FORCE, FA4427 60 CONS LGC

Service Type: Laundry Service
Mandatory for: US Air Force, Joint Base Andrews and Joint Base Ancostia-Bolling, 1349 Lutman Drive, Joint Base Andrews, MD
Authorized Source of Supply: Louise W. Eggleston Center, Inc., Norfolk, VA
Contracting Activity: DEPT OF THE AIR FORCE, FA2860 11 CONS LGC

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–15316 Filed 7–11–24; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22–31]

Arms Sales Notification; Withdrawal

AGENCY: Defense Security Cooperation Agency, Department of Defense (DoD).

ACTION: Arms sales notice; withdrawal.

SUMMARY: On Thursday, June 6, 2024, the DoD published the unclassified text of an arms sales notification in the **Federal Register**. The published notice contained a Policy Justification for the North Atlantic Treaty Organization (NATO) and a Policy Justification for the Taipei Economic and Cultural Representative Office in the United States (TECRO). The Policy Justification for NATO was erroneously included. DoD is withdrawing the notice and will resubmit a corrected TECRO notice for publication at a later date.

FOR FURTHER INFORMATION CONTACT: Neil Hedlund at *neil.g.hedlund.civ@mail.mil* or (703) 697–9214.

SUPPLEMENTARY INFORMATION: The arms sales notification at 89 FR 48416–48418 that published in the **Federal Register** on Thursday, June 6, 2024 is withdrawn. A corrected notice will be resubmitted for publication at a later date.

Dated: July 9, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–15367 Filed 7–11–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0079]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), Department of Defense (DoD).

ACTION: Notice of availability of proposed amendments to the Manual for Courts-Martial, United States (2024 ed.), supplementary materials, and notice of public meeting.

SUMMARY: The DoD requests comments on proposed changes to the Manual for Courts-Martial (MCM), United States (2024 ed.) and announces a public meeting to receive comments. The approval authority for the changes to the MCM is the President, while the approval authority for the changes to the supplementary materials is the General Counsel of the DoD.

DATES: Comments on the proposed changes must be received no later than August 26, 2024. A public meeting to receive comments concerning the proposed changes will be held on August 14, 2024, at 10:00 a.m. in the Court of Appeals of the Armed Forces building, 450 E St. NW, Washington, DC 20442–0001 with an option for remote attendance. Details on remote attendance will be posted at least 7 days in advance of the meeting at *https://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/.*

ADDRESSES: The proposed changes to the MCM (2024 ed.) can be reviewed at *https://jsc.defense.gov/Military-Law/Current-Publications-and-Updates/.* 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.
- *JSC Portal: http://jsc.defense.gov/Contact.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number 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: Commander Anthony M. DeStefano, U.S. Coast Guard, Executive Secretary, JSC, (202) 372–3807, *anthony.m.destefano@uscg.mil.* The JSC website is located at *http://jsc.defense.gov.*

SUPPLEMENTARY INFORMATION: These proposed changes have not been coordinated within the DoD under DoD Directive 5500.01, ''Preparing, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters, and Testimony,'' June 15, 2007, and do not constitute the official position of the DoD, the Military Departments, or any other Government agency.

This notice is provided in accordance with DoD Instruction 5500.17, ''Role and Responsibilities of the Joint Service Committee on Military Justice (JSC),'' February 21, 2018.

The JSC invites members of the public to comment on the proposed changes; such comments should address specific recommended changes and provide supporting rationale.

This notice also sets forth the date, time, and location for a public meeting of the JSC to discuss the proposed changes.

This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

Dated: July 9, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–15369 Filed 7–11–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Board on Coastal Engineering Research

AGENCY: Department of the Army, DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Board on Coastal Engineering Research (BCER). This meeting is open to the public.

DATES: The BCER will meet from 8:00 a.m. to 5:00 p.m. on August 13–14, 2024, and from 8:00 a.m. to 10:30 a.m. on August 15, 2024 Pacific Standard Time (PST). All sessions are open to the public.

ADDRESSES: The address of all sessions is The Westin St. Francis San Francisco on Union Square, 335 Powell Street, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Dr. Julie Dean Rosati, the Board's Designated Federal Officer (DFO), (251) 635–9519 (Voice), *Julie.D.Rosati@usace.army.mil* (email). Mailing address is Board on Coastal Engineering Research, U.S. Army Engineer Research and Development Center, Waterways Experiment Station, Coastal and Hydraulics Laboratory, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199. Website: *https://www.erdc.usace.army.mil/Locations/CHL/CERB/.* The

most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: The meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. 10), the Government in the Sunshine Act (5 U.S.C. 552b), and Title 41 Code of Federal Regulations (CFR), sections 102–3.140 and 102–3.150.

Purpose of the Meeting: The Board's mission is to provide broad policy guidance and review and develop research plans and projects in consonance with the needs of the coastal engineering field and the objectives of the U.S. Army Chief of Engineers. The objective of this meeting is celebrating accomplishments of the BCER in 100 meetings and setting the stage for the BCER's future.

Agenda: Starting Tuesday morning August 13, 2024, at 8:00 a.m. the Board will be called to order and panel session one entitled, Celebrating BCER Accomplishments. Presentations include: History of BCER and Top Accomplishments; San Francisco Bay Modeling Regional Dredge Material Management Plan; San Francisco Bay Engineering With Nature Proving Grounds; Dam Removal on the West Coast; US Coastal Research Program: Outcomes of Decadal Workshop. Panel session two is titled Coastal System Focus: San Francisco Bay with presentations to include History of San Francisco Bay from an Environmental Context and an Introduction to the San Francisco Waterfront. The meeting will then adjourn for the day.

The Board will reconvene on August 14, 2024, with a panel discussion entitled Partnerships and Challenges in the Pacific. Presentations include Northeast Pacific Basin; Climate, Sea Level Change and Pacific Islands; Pacific Island Modeling and Kwajalein Flooding; Multi-jurisdictional and Community- Focused Sea Level Rise Adaptation Planning, Oakland Alameda Adaptation Committee; Progress and Challenges of the Tidal Marsh Restoration Effort in San Francisco Bay south Bay Salt Pond Restoration Project; and Innovations in Beneficial Use for Ecosystem Resilience. After Lunch the board will discuss ongoing initiatives, future actions, and give final comments. The oral public comment period will be 3:45–4:15 p.m. PT (see *Meeting Accessibility* for more details).

On August 15, 2024, the Board will conclude with a business discussion of the status of ongoing action items and next meeting timing, venue and focus.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and subject to space availability, the meeting is open to the public both in-person and virtually. Because seating capacity is limited, advance registration is required. For registration requirements please see below. Persons desiring to participate in the meeting online or by phone are required to submit their name, organization, email, and telephone contact information to Ms. Jennifer Ratliff at *Jennifer.r.ratliff@usace.army.mil* no later than August 5, 2024. Specific instructions for virtual meeting participation, will be provided by reply email.

Oral participation by the public is scheduled for 3:45–4:15 p.m. PT on August 14, 2024. For additional information about public access procedures, please contact Dr. Julie Dean Rosati, the Board's DFO, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Registration: It is encouraged for individuals who wish to attend the meeting of the Board to register with the DFO by email, the preferred method of contact, no later than July 30, 2024, using the electronic mail contact information found in the **FOR FURTHER INFORMATION CONTACT** section. The communication should include the registrant's full name, title, affiliation or employer, email address, and daytime phone number. If applicable, include written comments or statements with the registration email.

Written Comments and Statements: In accordance with Section 10(a)(3) of the FACA and Title 41 CFR, Sections 102–3.015(j) and 102–3.140, the public or interested organizations may submit written comments or statements to the Board, in response to the stated agenda of the open meeting or in regard to the Board's mission in general. Written comments or statements should be submitted to Dr. Julie Dean Rosati, DFO, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. The DFO will review all submitted written comments or statements and provide them to members of the Board for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the DFO at least five business days prior to the meeting to be considered by the Board. The DFO will review all timely submitted written comments or statements with the Board Chairperson and ensure the comments are provided to all members of the Board before the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting.

Verbal Comments: Pursuant to 41 CFR 102–3.140d, the Board is not obligated to allow a member of the public to speak or otherwise address the Board during the meeting. Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least five business days in advance to the Board's DFO, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The DFO will log each request, in the order received, and in consultation with the Board Chair, determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 30-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment, and whose comments have been deemed relevant under the process described above, will be allotted no more than five minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO.

Ty V. Wamsley,

Director, Coastal and Hydraulics Laboratory.

[FR Doc. 2024–15287 Filed 7–11–24; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0064]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Office of Special Education and Rehabilitative Services Peer Reviewer Data Form

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 12, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Justin Hampton, 202–245–6318.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Office of Special Education and Rehabilitative Services Peer Reviewer Data Form.

OMB Control Number: 1820–0583.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 350.

Total Estimated Number of Annual Burden Hours: 88.

Abstract: The OSERS Peer Reviewer Data Form (OPRDF) is used by OSERS staff to identify potential reviewers who would be qualified to review specific types of grant applications for funding. OSERS uses this form to collect background contact information for each potential reviewer; and to provide information on any reasonable accommodations that might be required by the individual. OSERS is requesting a revision with minor changes to the previous form regarding the gender response options. The previous version of the OPRDF, 1820–0583, will expire on July 31,2024.

Dated: July 9, 2024.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–15345 Filed 7–11–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0067]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; U.S. Department of Education Postsecondary Success Recognition Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 12, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Jennifer Engle, (202) 987–0420.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: U.S. Department of Education Postsecondary Success Recognition Program.

OMB Control Number: 1840–NEW.

Type of Review: New ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 150.

Total Estimated Number of Annual Burden Hours: 1,500.

Abstract: This recognition program is administered by the Office of Postsecondary Education in the U.S. Department of Education (Department). The purpose of this program is to recognize institutions that serve as engines of economic mobility by supporting all students to complete affordable credentials of value that prepare them well to participate in the workforce, their communities, and our democracy. For this recognition program, the Department considers postsecondary success to include providing access to an affordable education including to under served populations; supporting students through to completion of credentials of value; and helping students navigate to career pathways that improve their lives through economic mobility. This program does not include financial compensation nor guarantee financial compensation in the future.

Dated: July 9, 2024.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–15318 Filed 7–11–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0060]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Regional Educational Laboratory (REL) Southwest Effective Advising Framework Evaluation

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before August 12, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Anousheh Shayestehpour, 202–987–1148.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Regional Educational Laboratory (REL) Southwest Effective Advising Framework Evaluation.

OMB Control Number: 1850–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 852.

Total Estimated Number of Annual Burden Hours: 285.

Abstract: By 2030, the Texas Higher Education Coordinating Board expects that 60 percent or more of all new jobs in Texas will require some postsecondary education. However, in 2019, less than half of the Texas population ages 25–34 years (44.3 percent) had some type of postsecondary credential. To close this gap and support districts in meeting the state statute that requires schools to fully develop each student's academic, career, personal, and social abilities, the Counseling, Advising, and Student Supports team (under the Division of College, Career, and Military Preparation) at the Texas Education Agency established the Effective Advising Framework. This framework expands access to effective college and career advising by streamlining and modernizing advising offerings and services for secondary and postsecondary students. The initiative aims to support students in making informed decisions about postsecondary education and careers and to offer professional development to educators and guidance counselors on advising services.

This proposed study will examine the implementation of the Effective Advising Framework across school districts participating in the pilot program. Because it is expected that districts are applying the framework in a variety of ways, the study will examine the variation in implementation across districts, including an analysis of the factors that support or hinder implementation. To do this, the research team will collect data from public education staff at the school, district, and regional levels. Surveys will be administered to gather information on how and what is being implemented at each level and what factors may act as barriers to successful implementation. One-on-one interviews and focus group interviews will be conducted with a subsample of respondents from each level to gather more in-depth information on the successes and challenges they faced in applying the framework. The results of this study will inform the continued development of the framework and the associated resources and supports that will be provided to districts and schools when the initiative is implemented statewide.

Dated: July 9, 2024.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–15354 Filed 7–11–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2467–000]

Spanish Peaks Solar LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Spanish Peaks Solar LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the

Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15302 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2396–000]

Venturi Asset Management, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Venturi Asset Management, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15295 Filed 7–11–24; 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: RP24–898–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: 4(d) Rate Filing: Volume No. 2-Lackwanna Energy Center LLC to be effective 8/3/2024.

Filed Date: 7/5/24.

Accession Number: 20240705–5115.

Comment Date: 5 p.m. ET 7/17/24.

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: July 8, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15361 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2426–000]

Pickaway County Solar Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Pickaway County Solar Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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.*

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15303 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7473–013]

John M. Bertl; Notice of Proposed Termination of Exemption by Implied Surrender and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Proposed termination of exemption by implied surrender.

b. *Project No:* 7473–013.

c. *Date Initiated:* July 5, 2024.

d. *Exemptee:* John M. Bertl.

e. *Name of Project:* Gilman Stream Hydroelectric Project.

f. *Location:* The Gilman Stream Project is located on Gilman Stream in Somerset County, Maine. The project does not occupy Federal lands.

g. *Pursuant to:* 18 CFR 4.106.

h. *Exemptee Contact:* Mr. John Bertl, 32 Bog Road, North New Portland, Maine 04961.

i. *FERC Contact:* Mr. Steven Sachs, (202) 502–8666, *Steven.Sachs@ferc.gov.*

j. *Resource Agency Comments:* Federal, State, local and Tribal agencies are invited to file comments on the described proceeding. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

k. *Deadline for filing comments, motions to intervene, and protests:* September 3, 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.* 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–7473–013. Comments emailed to Commission staff are not 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 Authorized Project Facilities:* The project works include: (1) a 228-foot-long, 17-foot-high concrete dam; (2) a 790-acre reservoir; (3) a 220-foot-long power canal; (4) a 4-foot-diameter, 140-foot-long steel penstock; (5) a powerhouse with a capacity of 120 kilowatts; (6) a transmission line; and (7) appurtenant facilities. Except for operating emergencies beyond the exemptee's control and for short periods upon mutual agreement with the Maine Department of Environmental Protection and the Gilman Pond Lake Association (Lake Association), the exemptee is required to maintain water levels in accordance with the May 29, 1987 agreement with the Lake Association.

m. *Description of Proceeding:* The exemptee is in violation of Standard Article 1 of the exemption, issued on June 17, 1987 (*North New Portland Energy Corporation,* 39 FERC ¶ 62,365), codified in the Commission's regulations at 18 CFR 4.106. Article 1 provides, among other things, that the Commission reserves the right to revoke an exemption if any term or condition of the exemption is violated. The project has not operated since 2008 despite Commission staff's attempts to work with the exemptee to restore project operation.

The exemptee's failure to operate and maintain the project as authorized by its exemption is a violation of Standard Article 1. Following communications beginning in May 2020 between Commission staff and the exemptee regarding restoration of project operation, the exemptee filed a letter on July 25, 2022 stating it planned to surrender the exemption and would not be making substantial repairs or restoring generation. On November 4, 2022, based on the exemptee's intent to surrender the project, Commission staff issued a letter indicating the exemptee should file a surrender application and requested a schedule for the application and documentation providing evidence of any progress towards developing the application. On November 3, 2023, Commission staff issued a letter requesting the exemptee file a surrender application. Sufficient time has passed and the exemptee has failed to file a surrender application or evidence of progress in developing one.

n. *Locations of the Project Record:* The public record for this project 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 documents. 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.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. *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.

q. *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.

r. 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: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15300 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2445–028]

Green Mountain Power Corporation; Notice of Meeting

a. *Project Name and Number:* Center Rutland Hydroelectric Project No. 2445–028.

b. *Applicant:* Green Mountain Power Corporation.

c. *Date and Time of Meeting:* Monday, July 22, 2024, from 9:00 a.m. to 10:00 a.m. Eastern Standard Time.

d. *FERC Contact:* Amanda Gill, (202) 502–6773, *amanda.gill@ferc.gov.*

e. *Purpose of Meeting:* Commission staff will hold a meeting with representatives from the Vermont Department of Historic Preservation (Vermont DHP) to discuss Commission staff's draft Programmatic Agreement and the Area of Potential Effects for the Center Rutland Project, pursuant to section 106 of the National Historic Preservation Act. The meeting will be held virtually via Microsoft Teams.

f. All local, State, and Federal agencies, Indian Tribes, and other interested parties are invited to participate. If meeting attendees decide to disclose information about a specific location that could create a risk or harm to an archaeological site or Native American cultural resource, attendees

other than Vermont DHP, Tribal representatives, and Commission staff will be excused for that portion of the meeting.

g. A summary of the meeting will be placed in the public record of this proceeding. As appropriate, the meeting summary will include both a public, redacted version that excludes any information about the specific location of any archaeological site or Native American cultural resource and an unredacted privileged version. Parties planning to attend the meeting should notify Amanda Gill at (202) 502–6773 or *amanda.gill@ferc.gov* by Friday, July 19, 2024 to RSVP and to receive specific instructions for logging in to the meeting.

Dated: July 8, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15362 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2425–000]

Buckeye Plains Solar Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Buckeye Plains Solar Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

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: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15304 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2399–000]

Aurora Trading Company, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Aurora Trading Company, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this

information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

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Dated: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15299 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4113–067]

Oswego Hydro Partners, LP; Notice of Scoping Meetings and Environmental Site Review and Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 4113–067.

c. *Date Filed:* February 27, 2024.

d. *Applicant:* Oswego Hydro Partners, LP.

e. *Name of Project:* Phoenix Hydroelectric Project.

f. *Location:* On the Oswego, Oneida, and Seneca Rivers in Onondaga and Oswego counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Jody Smet, Vice President Regulatory Affairs, Eagle Creek Renewable Energy, LLC, 7315 Wisconsin Avenue, Suite 1100W, Bethesda, MD 20814; telephone at (240) 482–2700; email at *Jody.smet@eaglecreekre.com.*

i. *FERC Contact:* Joshua Dub, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–8138; email at *Joshua.Dub@ferc.gov.*

j. *Deadline for filing scoping comments:* September 9, 2024.

The Commission strongly encourages electronic filing. Please file scoping 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 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, MD 20852. All filings must clearly identify the project name and docket number on the first page: Phoenix Hydroelectric Project (P–4113–067).

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The application is not ready for environmental analysis at this time.

l. *Project Description:* The Phoenix Project consist of a concrete dam, known as the Phoenix Dam, that includes: (1) an approximately 90-foot-long, 55-foot-wide powerhouse that is integral with the dam and includes: (a) north and south intake openings with a trashrack with 1-inch clear bar spacing; and (b) two 1.59–MW vertical Kaplan turbine-generator units, for a total installed capacity of 3.18 MW; (2) a section with a 10-foot-long debris sluice gate and a 7-foot-long sluice gate that provides downstream fish passage; (3) a 163-foot-long, 14-foot-high ogee spillway with 1-foot-high flashboards that have a crest elevation of 362.42 feet North American Vertical Datum of 1988 (NAVD 88); (4) an approximately 206-foot-long section with four Tainter gates; (5) a 390-foot-long, 14-foot-high ogee spillway with 1-foot-high flashboards that have a crest elevation of 362.42 feet NAVD 88; and (6) a 107-foot-long section with two Tainter gates.

The 107-foot-long Tainter gate section of Phoenix Dam abuts Lock Island, which is a non-project feature that spans approximately 150 feet of the Oswego River. In addition, a non-project lock, known as the Phoenix Lock, spans approximately 45 feet of the Oswego River between Lock Island and the east shoreline of the Oswego River. Together, the Phoenix Dam, Lock Island, and Phoenix Lock create an impoundment that has a surface area of approximately 1,400 acres at 362.42 feet NAVD 88.

From the impoundment, water flows through the trashrack to a forebay, and then through the powerhouse. Water is discharged from the turbines to an approximately 120-foot-long tailrace that discharges to the Oswego River.

The project includes a trap and transport facility for the upstream passage of American eel that consists of an eel ramp and a plastic eel collection box located approximately 160 feet downstream of the project dam on the east shoreline of the Oswego River. The project also includes a downstream fishway that consists of the 7-foot-long sluice gate and a 4.8-foot-deep concrete plunge pool. Additionally, the project includes an aluminum walkway that provides access to the 206-foot-long Tainter gate section of the dam.

The project generators are connected to the regional electric grid by: a 4.16/34.5-kilovolt (kV) step-up transformer and a 230-foot-long, 34.5-kV underground transmission line.

The minimum and maximum hydraulic capacities of the powerhouse are 500 and 4,580 cubic feet per second (cfs), respectively. The average annual energy production of the Phoenix Project was 10,518 megawatt-hours from 2016 through 2023.

The current license requires Oswego Hydro to operate the project in a run-of-river mode and maintain a maximum impoundment surface elevation of 362.42 feet NAVD88. Oswego Hydro currently maintains the surface elevation of the impoundment between 361.92 feet and 362.42 feet NAVD 88.

The current license also requires Oswego Hydro to: (1) release a year-round minimum flow of 300 cfs or inflow, whichever is less, to the Oswego River downstream of the project; and (2) when inflow is less than 1,900 cfs from June 1 through October 31, implement water quality monitoring and, if average tailwater dissolved oxygen drops below 5 milligrams per liter, provide mitigative flow releases for the protection of downstream water quality. Oswego Hydro provides upstream eel passage from June through October, using the trap and transport facility, and provides downstream fish passage year-round using the downstream fishway.

Oswego Hydro proposes to continue operating the project in a run-of-river mode and maintaining the surface elevation of the impoundment at 361.92 to 362.42 feet NAVD 88. Oswego Hydro proposes to continue releasing a year-round minimum flow of 300 cfs or inflow, whichever is less, to the Oswego River downstream of the project, but does not propose to continue water quality monitoring and mitigative flow releases when inflow is less than 1,900 cfs from June 1 through October 31. In addition, Oswego Hydro proposes to continue operating and maintaining the trap and transport facility and the downstream fishway for eel and fish passage. Oswego Hydro proposes to develop a fish passage operation and maintenance plan, implement a Bat and Bald Eagle Protection Plan that it filed in the application, and maintain an existing interpretative display and fencing for the protection of historic properties.

m. A copy of the application can be viewed on the Commission's website at *https://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

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.

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n. *Scoping Process:* Pursuant to the National Environmental Policy Act (NEPA), Commission staff will prepare either an environmental assessment (EA) or an environmental impact statement (EIS) (collectively referred to as the ''NEPA document'') that describes and evaluates the probable effects, including an assessment of the site-specific and cumulative effects, if any, of the proposed action and alternatives. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission issues an EA or an EIS.

Scoping Meetings

Commission staff will hold two public scoping meetings to receive input on the scope of the environmental issues that should be analyzed in the NEPA document. The daytime meeting will focus on the concerns of resource agencies, non-governmental organizations (NGOs), and Indian Tribes. The evening meeting will focus on receiving input from the public. All interested individuals, resource agencies, Indian Tribes, and NGOs are invited to attend one or both of the meetings. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Thursday, August 8, 2024.
Time: 1:00 p.m. (EDT).
Place: Schroeppel Town Hall.
Address: 69 County Route 57A, Phoenix, NY 13135.

Evening Scoping Meeting

Date: Thursday, August 8, 2024.
Time: 6:00 p.m. (EDT).
Place: Schroeppel Town Hall.
Address: 69 County Route 57A, Phoenix, NY 13135.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the NEPA document were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Site Visit

The applicant and Commission staff will hold a site visit at the project beginning at 9:00 a.m. on August 8, 2024. All interested individuals, agencies, Tribes, and NGOs are invited to attend. All participants should meet at the parking area located at the entrance to the powerhouse driveway at 9450 River Street, Phoenix, NY. All participants are responsible for their own transportation and should wear closed-toe shoes/boots. If you plan to attend the site visit, please contact Mr. Tod Nash of Eagle Creek Renewable Energy at (315) 783–5000, or via email at *tod.nash@eaglecreekre.com* on or before July 29, 2024.

Objectives

At the scoping meetings, Commission staff will: (1) summarize the environmental issues tentatively identified for analysis in the NEPA document; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the NEPA document, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the NEPA document; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project. Individuals, NGOs, Indian Tribes, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the NEPA document.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15363 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2418–000]

Sparta Energy, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sparta Energy, Inc's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal

Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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Dated: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15294 Filed 7–11–24; 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: RP24–895–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: 4(d) Rate Filing: WSS Base Gas—Update—Jul 2024—a to be effective 8/3/2024.

Filed Date: 7/3/24.

Accession Number: 20240703–5137.

Comment Date: 5 p.m. ET 7/15/24.

Docket Numbers: RP24–896–000.

Applicants: Columbia Gas Transmission, LLC.

Description: 4(d) Rate Filing: ROFR Notice Extension to be effective 8/5/2024.

Filed Date: 7/5/24.

Accession Number: 20240705–5037.

Comment Date: 5 p.m. ET 7/17/24.

Docket Numbers: RP24–897–000.

Applicants: Rockies Express Pipeline LLC.

Description: 4(d) Rate Filing: REX 2024–07–05 Negotiated Rate Agreement to be effective 7/8/2024.

Filed Date: 7/5/24.

Accession Number: 20240705–5079.

Comment Date: 5 p.m. ET 7/17/24.

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.

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Dated: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15296 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10856–115]

UP Hydro, LLC; Notice of Effectiveness of Withdrawal of Application for Surrender of License

On July 17, 2020, UP Hydro, LLC filed an application for surrender of license for the 0.9-megawatt Au Train Hydroelectric Project No. 10856. On June 18, 2024, UP Hydro, LLC filed a notice of withdrawal of its application.

No motion in opposition to the notice of withdrawal has been filed, and the Commission has taken no action to disallow the withdrawal. Pursuant to Rule 216(b) of the Commission's Rules of Practice and Procedure,[1] the withdrawal of the application became effective on July 3, 2024, and this proceeding is hereby terminated.

Dated: July 8, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15364 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.216(b) (2023).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1329–003.
Applicants: J.P. Morgan Ventures Energy Corporation.
Description: Compliance filing: Update to Market Based Rate Tariff to be effective 11/20/2023.
Filed Date: 7/5/24.
Accession Number: 20240705–5059.
Comment Date: 5 p.m. ET 7/26/24.

Docket Numbers: ER21–2364–003.
Applicants: Albemarle Beach Solar, LLC.
Description: Informational Filing Pursuant to Schedule 2 of the PJM Interconnection, L.L.C. Open Access Transmission Tariff and Requests for Waiver and Expedited Action.
Filed Date: 7/1/24.
Accession Number: 20240701–5470.
Comment Date: 5 p.m. ET 7/22/24.

Docket Numbers: ER24–2463–000.
Applicants: New York Independent System Operator, Inc.
Description: Petition for Prospective Tariff Waiver, for a Shortened Comment Period and for Expedited Action of New York Independent System Operator, Inc.
Filed Date: 7/2/24.
Accession Number: 20240702–5234.
Comment Date: 5 p.m. ET 7/12/24.

Docket Numbers: ER24–2467–000.
Applicants: Spanish Peaks Solar LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application to be effective 9/2/2024.
Filed Date: 7/3/24.
Accession Number: 20240703–5202.
Comment Date: 5 p.m. ET 7/24/24.

Docket Numbers: ER24–2468–000.
Applicants: Entergy Louisiana, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, Entergy Texas, Inc., Entergy Services, LLC, Entergy Arkansas, LLC.
Description: 205(d) Rate Filing: Entergy Louisiana, LLC submits tariff filing per 35.13(a)(2)(iii: MSS–4R Clean Up Filing to be effective 5/14/2024.
Filed Date: 7/3/24.
Accession Number: 20240703–5224.
Comment Date: 5 p.m. ET 7/24/24.

Docket Numbers: ER24–2469–000.
Applicants: Southwest Power Pool, Inc.
Description: 205(d) Rate Filing: 4226 Lazbuddie Wind Energy & SPS Facilities Service Agr to be effective 9/3/2024.
Filed Date: 7/5/24.
Accession Number: 20240705–5039.
Comment Date: 5 p.m. ET 7/26/24.

Docket Numbers: ER24–2470–000.
Applicants: Tenaska Virginia Partners, L.P.
Description: Tenaska Virginia Partners, L.P. submits Request for Limited Tariff Waiver of the 90-day prior notice requirement set forth in Schedule 2 to the PJM Interconnection, L.L.C. Open Access Transmission Tariff.
Filed Date: 7/3/24.
Accession Number: 20240703–5230.
Comment Date: 5 p.m. ET 7/24/24.

Docket Numbers: ER24–2471–000.
Applicants: California Independent System Operator Corporation.
Description: 205(d) Rate Filing: 2024–07–05 Applicant Participating Transmission Owner Agrmt—SunZia to be effective 9/4/2024.
Filed Date: 7/5/24.
Accession Number: 20240705–5117.
Comment Date: 5 p.m. ET 7/26/24.

Docket Numbers: ER24–2472–000.
Applicants: PJM Interconnection, L.L.C.
Description: 205(d) Rate Filing: Original WMPA, Service Agreement No. 7301; AG1–210 to be effective 6/4/2024.
Filed Date: 7/5/24.
Accession Number: 20240705–5123.
Comment Date: 5 p.m. ET 7/26/24.

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: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15297 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6066–042]

McCallum Enterprises I, Limited Partnership, Shelton Canal Company; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Relicensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.
b. *Project No.:* 6066–042.
c. *Date filed:* April 15, 2024.
d. *Applicants:* McCallum Enterprises I, Limited Partnership (McCallum) and Shelton Canal Company (Shelton).
e. *Name of Project:* Derby Dam Hydroelectric Project (Derby Project or project).
f. *Location:* On the Housatonic River in Fairfield and New Haven Counties, Connecticut.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Joseph W. Szarmach Jr., McCallum Enterprises I, Limited Partnership, 2874 Main Street, Stratford, CT 06614; telephone at (203) 368–1745; email at *joseph.szarmach@gmail.com.*
i. *FERC Contact:* Brandi Welch-Acosta, Project Coordinator, New England Branch, Division of Hydropower Licensing; telephone at (202) 502–8964; email at *brandi.welch-acosta@ferc.gov*.
j. The application is not ready for environmental analysis at this time.
k. *Project Description:* The existing Derby Project consists of: (1) 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); (2) 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; (3) 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; (4) a gatehouse (Derby gatehouse); (5) a gatehouse (Shelton gatehouse) and 130-foot-long, 94-foot-wide headrace channel extending downstream from the dam; (6) a navigation lock located at the west abutment, which constitutes the first 70 feet of the Shelton canal; (7) 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 (MW) and a rated flow of 4,600 cubic feet per second; (8) a 775-foot-long, 13.8 kilovolt underwater transmission line tying into the existing United Illuminating Company system; and (9) appurtenant facilities.

The current license requires the implementation of an August 5, 1987 recreation plan that includes: (1) fishing access with an information kiosk downstream of the dam on the east shoreline; (2) fishing access with an information kiosk at the project's tailrace (west shoreline); (3) canoe portage and associated warning signs at the project's tailrace; (4) an information kiosk at the entrance to the project; and (5) picnic tables and benches with scenic views of the river.

The current license requires the project to operate in a run-of-river mode such that outflow from the project approximates inflow to the impoundment. The project bypasses approximately 350 feet of the Housatonic River. The average annual generation of the project was approximately 25,147 megawatt-hours from 2006 through 2016.

McCallum and Shelton propose to continue operating the project in a run-of-river mode. McCallum and Shelton also propose to: (1) develop an operation monitoring plan; (2) develop an impoundment refill plan; (3) install and operate an upstream fish passage facility with an automated fish lift; (4) install a new 0.4-MW minimum flow turbine within the upstream fish passage facility; (5) develop a fishway operation and maintenance plan; (6) install and operate one or more upstream eel passage facilities; (7) install and operate a downstream fish passage facility; (8) install a seasonal 0.75-inch partial depth trashrack overlay; and (9) implement downstream eel passage measures.

l. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) 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 (P–6066). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676, 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.

m. 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.*

n. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter and Request for Additional Information	August 2024.
Issue Scoping Document 1 for comments	November 2024.
Request Additional Information (if necessary)	December 2024.
Issue Acceptance Letter	December 2024.
Issue Scoping Document 2 (if necessary)	January 2025.
Issue Notice of Ready for Environmental Analysis	January 2025.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15301 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2394–000]

Cataract Coast, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Cataract Coast, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 25, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://*

www.ferc.gov. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

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: July 5, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15298 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14890–005]

Southeast Oklahoma Power Corporation; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), Commencement of ILP Pre-Filing Process, and Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for an Original License and Commencing Pre-filing Process.

b. *Project No.:* 14890–005.

c. *Dated Filed:* May 7, 2024.

d. *Submitted by:* Southeast Oklahoma Power Corporation (SEOPC).

e. *Name of Project:* Pushmataha County Pumped Storage Hydroelectric Project (Pushmataha Project).

f. *Location:* The proposed project would be located along the Kiamichi River in Pushmataha County, Oklahoma, approximately 5 miles south of Talihina, Oklahoma, and would include a transmission line extending through Pushmataha and McCurtain Counties, Oklahoma, and Red River and Lamar Counties, Texas, to its proposed point of interconnection in Paris, Texas. The project would entail the construction of a new 886-foot-long upper dam, with a 599.55-acre upper reservoir; a 13,615-foot-long lower dam, with an 887.37-acre lower reservoir; a 40-acre re-regulating reservoir; a concrete pump station/powerhouse, with a total installed capacity of 1,200 MW; and a 99.96-mile-long, 345 kV transmission line. Initial fill water and make-up water would be provided via a concrete intake channel on the Kiamichi River.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contact:* Johann Tse, Southeast Oklahoma Power Corporation, 6208 Sandpebble Court, Dallas, Texas 75254; (469) 951–3088; *johann.tse@aquariancapital.com.*

i. *FERC Contact:* Kristine Sillett at (202) 502–6575, or email at *kristine.sillett@ferc.gov.*

j. *Cooperating Agencies:* Federal, State, Tribal, and local agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations, thereunder, at 50 CFR, Part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Southeast Oklahoma Power Corporation as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Southeast Oklahoma Power Corporation filed with the Commission a Pre-Application Document (PAD, including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (*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 at *FERCOnlineSupport@ferc.gov,* or call toll-free, (866) 208–3676, or for TYY, (202) 502–8659. The PAD may also be viewed at *www.greenvaultenergy.net,* and copies are available for review at the Antlers and Idabel public libraries in Oklahoma, and the Red River County and Paris public libraries in Texas.

You may register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595, or *OPP@ferc.gov.*

o. With this notice, we are soliciting comments on the PAD and Commission

staff's Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, as well as study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission.

The Commission strongly encourages electronic filing. Please file all documents using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Pushmataha Project (P–14890–005).

All filings with the Commission must bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by September 6, 2024.

p. *Scoping Process:* In accordance with the National Environmental Policy Act (NEPA), Commission staff will prepare either an environmental assessment (EA) or an environmental impact statement (EIS) (collectively referred to as the ''NEPA document''). The NEPA document will consider both site-specific and cumulative environmental effects, and reasonable alternatives to the proposed action. The Commission's scoping process will help determine the required level of analysis and satisfy the NEPA scoping requirements, irrespective of whether the Commission prepares an EA or EIS.

Scoping Meetings

Commission staff will hold five public scoping meetings to receive input on the scope of the environmental issues that should be analyzed in the NEPA document (a daytime and evening meeting in Paris, Texas, a daytime and evening meeting in Talihina, Oklahoma, and one virtual meeting). Daytime scoping meetings will focus on resource agency, Native American Tribes, and non-governmental organization (NGO) concerns, while the evening scoping meetings will focus on receiving input from the public. We invite all interested agencies, Native American Tribes, NGOs, and individuals to attend one of these meetings to assist us in identifying the scope of environmental issues that should be analyzed in the NEPA document. Additionally, each meeting will include a virtual review of the proposed project site. The dates, times, and locations of these meetings are as follows:

Paris, Texas

Daytime Scoping Meeting *

Date: Wednesday, August 7, 2024.
Time: 9:30 a.m.–11:30 a.m. CDT.
Place: Love Civic Center (North Hall).
Address: 2025 S Collegiate Dr., Paris, Texas 75460.

Evening Scoping Meeting *

Date: Wednesday, August 7, 2024.
Time: 6:30 p.m.–8:30 p.m. CDT.
Place: Love Civic Center (North Hall).
Address: 2025 S Collegiate Dr., Paris, Texas 75460.

Talihina, Oklahoma

Evening Scoping Meeting *

Date: Thursday, August 8, 2024.
Time: 6:30 p.m.–8:30 p.m. CDT.
Place: Talihina Junior High Auditorium.
Address: 600 1st St., Talihina, Oklahoma 74571.

Daytime Scoping Meeting *

Date: Friday, August 9, 2024.
Time: 9:30 a.m.–11:30 a.m. CDT.
Place: Talihina Junior High Auditorium.
Address: 600 1st St., Talihina, Oklahoma 74571.

Virtual Scoping Meeting

Date: Thursday, August 15, 2024.
Time: 9:00 a.m.–12:00 p.m. CDT (10:00 a.m.–1:00 p.m. EDT).
Information: A scoping meeting will be held virtually. (You will be able to connect to the meeting using a computer or a telephone.) If you plan to attend the virtual meeting, please RSVP via email to *PushmatahaMeetingRSVP@ferc.gov* on or before August 11, 2024 and, in the days before the meeting, you will receive specific instructions on how to attend. In your email, please indicate if you would like to speak. Please do not send comments to this email address.

* *For the in-person meetings there is no need to RSVP.* People will be admitted until the capacity of the meeting space is reached.

Copies of SD1, outlining the subject areas to be addressed in the NEPA document, were distributed to the individuals and entities on the Commission's mailing list, as well as Southeast Oklahoma Power Corporation's distribution list and those who have included their address in comments filed on the proposed project through July 1, 2024. Copies of SD1 will be available at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, based on the scoping process.

Meeting Objectives

At the scoping meetings, Commission staff will: (1) initiate scoping of the issues; (2) review and discuss existing conditions; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the potential of any federal or state agency or Native American Tribe to act as a cooperating agency for development of an environmental document. Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and become part of the Commission's formal record on the project.

Agencies, Native American Tribes, NGOS, and individuals are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the NEPA document.

Dated: July 8, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15365 Filed 7–11–24; 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: EG24–219–000.

Applicants: Cross Town Energy Storage, LLC.

Description: Cross Town Energy Storage LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/8/24.

Accession Number: 20240708–5044.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: EG24–220–000.

Applicants: Cranberry Point Energy Storage, LLC.

Description: Cranberry Point Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/8/24.

Accession Number: 20240708–5049.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: EG24–221–000.

Applicants: Morrow Lake Solar, LLC.

Description: Morrow Lake Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 7/8/24.

Accession Number: 20240708–5076.

Comment Date: 5 p.m. ET 7/29/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23–2511–001; ER19–1597–006; ER20–902–003; ER20–1620–004; ER22–414–004; ER23–2346–002; ER23–2448–002; ER23–495–005.

Applicants: AES CE Solutions, LLC, Tunica Windpower LLC, Oak Ridge Solar, LLC, AES Marketing and Trading, LLC, AES Solutions Management, LLC, sPower Energy Marketing, AES Integrated Energy, LLC, Hardy Hills Solar Energy LLC.

Description: Triennial Market Power Analysis for Central Region of Hardy Hills Solar Energy LLC et. al.

Filed Date: 6/28/24.

Accession Number: 20240628–5407.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER24–1179–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2024–07–08_Att X, Appendix 6—Inverter Based Resources Compliance to be effective 4/2/2024.

Filed Date: 7/8/24.

Accession Number: 20240708–5090.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: ER24–1306–002.

Applicants: Windy Flats Partners, LLC.

Description: Tariff Amendment: Windy Flats Filing to be effective 4/22/2024.

Filed Date: 7/8/24.

Accession Number: 20240708–5095.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: ER24–2473–000.

Applicants: SunZia Transmission, LLC.

Description: 205(d) Rate Filing: OATT Revisions—Firm & Non-Firm P-to-P Trans. Rates & Interconnect Procedures to be effective 9/4/2024.

Filed Date: 7/8/24.

Accession Number: 20240708–5043.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: ER24–2474–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Amendment to ISA, SA No. 5687; Queue No. AF1–188 to be effective 9/7/2024.

Filed Date: 7/8/24.

Accession Number: 20240708–5070.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: ER24–2475–000.

Applicants: PJM Interconnection, L.L.C.

Description: 205(d) Rate Filing: Original WMPA; Service Agreement No. 7299; AF2–295 to be effective 6/6/2024.

Filed Date: 7/8/24.

Accession Number: 20240708–5082.

Comment Date: 5 p.m. ET 7/29/24.

Docket Numbers: ER24–2476–000.

Applicants: Terra-Gen VG Wind, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 7/9/2024.

Filed Date: 7/8/24.

Accession Number: 20240708–5086.

Comment Date: 5 p.m. ET 7/29/24.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES24–42–000.

Applicants: Duquesne Light Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Duquesne Light Company.

Filed Date: 7/3/24.

Accession Number: 20240703–0004.

Comment Date: 5 p.m. ET 7/24/24.

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: July 8, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–15360 Filed 7–11–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–134]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed June 28, 2024 10 a.m. EST

Through July 8, 2024 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20240120, Draft, USAF, FL, Expansion of Childcare Services North of the Eglin Test and Training Complex, Eglin Air Force Base, Florida, Comment Period Ends: 08/26/2024, Contact: Nick Post 210–925–3516.

EIS No. 20240121, Draft, BIA, CA, Koi Nation Shiloh Resort and Casino Project, Comment Period Ends: 08/26/2024, Contact: Chad Broussard 916–978–6165.

EIS No. 20240122, Final, BOP, KY, Proposed Development of a New Federal Correctional Institution and Federal Prison Camp—Letcher County, KY, Review Period Ends: 08/12/2024, Contact: Kimberly Hudson 202–616–2574.

EIS No. 20240123, Draft, USFS, ID, End of the World Project, Comment Period Ends: 08/26/2024, Contact: Jeffrey Shinn 208–839–2103.

Amended Notice

EIS No. 20240115, Final, USCG, TX, Texas Gulflink Deepwater Port License Application, Review Period Ends: 08/19/2024, Contact: Patrick Clark 202–372–1358.

Revision to FR Notice Published 7/5/2024; Correcting the Lead Agency from MARAD and USCG to only USCG and moving MARAD to a cooperating agency.

Dated: July 8, 2024.

Nancy Abrams,

Associate Director, Office of Federal Activities.

[FR Doc. 2024–15331 Filed 7–11–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2023–0589; FRL–12042–01–OAR]

California State Motor Vehicle Pollution Control Standards; Advanced Clean Fleets Regulation; Request for Waiver of Preemption and Authorization; Opportunity for Public Hearing and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and comment.

SUMMARY: The California Air Resources Board (CARB) has notified the Environmental Protection Agency (EPA) that it has adopted Advanced Clean Fleets (ACF) regulations, applicable to affected state and local government fleets, drayage truck fleets, federal agency fleets, and large commercial fleets that own, lease, or operate on-road medium-duty and heavy-duty vehicles, and light-duty package delivery vehicles, to incorporate zero-emitting vehicles beginning in 2024. The ACF regulations also require that all new California-certified medium- and heavy-duty vehicle sales be zero-emitting vehicles starting in 2036. Elements of the ACF regulation apply to off-road engines and equipment, specifically off-road yard tractors. By letter dated November 15, 2023, CARB submitted a request that EPA grant a waiver of preemption under section 209(b) of the Clean Air Act (CAA) for the ACF on-road regulations and an authorization under section 209(e) of the CAA for the ACF off-road regulations. This notice announces that EPA has scheduled a public hearing concerning California's request and that EPA is accepting written comment on the request.

DATES:

Comments: Written comments must be received on or before September 16, 2024.

Public Hearing: EPA plans to hold a virtual public hearing on August 14, 2024, regarding CARB's waiver and authorization request. See **SUPPLEMENTARY INFORMATION** for further information on the virtual public hearing and registration. Additional information regarding the virtual public hearing and this action can be found at: *https://www.epa.gov/regulations-emissions-vehicles-and-engines/virtual-public-hearing-californias-advanced-clean-fleet.*

ADDRESSES:

Comments: You may submit your comments, identified by Docket ID No. EPA–HQ–OAR–2023–0589, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* (our preferred method). Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OAR, Docket EPA–HQ–OAR–2023–0589, Mail Cod 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday through Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this action. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the process for these actions, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. For the full EPA public comment policy, information about confidential business information (CBI) or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Public Hearing: The virtual public hearing will be held on August 14, 2024. The hearing will begin at 10 a.m. Eastern Daylight Time and will end when all parties who wish to speak have had an opportunity to do so. All hearing attendees, for those wishing to attend the hearing (including even those who do not intend to provide testimony), should register by August 7, 2024. Information on how to register for the virtual public hearing regarding the ACF waiver and authorization request can be found at: *https://www.epa.gov/regulations-emissions-vehicles-and-engines/virtual-public-hearing-californias-advanced-clean-fleet.*

FOR FURTHER INFORMATION CONTACT: Mark Coryell, Office of Transportation and Air Quality, U.S. Environmental Protection Agency; Telephone number: (734) 214–4446; Email address: *coryell.mark@epa.gov.* Jeremy O'Kelly, Office of Transportation and Air Quality, U.S. Environmental Protection Agency; Telephone number: (202) 250–8884; Email address: *okelly.jeremy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. CARB's Waiver and Authorization Request

CARB's November 15, 2023, letter to the Administrator notified EPA that CARB had finalized its ACF regulations. The ACF regulations, adopted by the Board on April 28, 2023 (approved by California's Office of Administrative Law (OAL) on September 29, 2023, and becoming effective October 1, 2023).[1] Detailed descriptions of the ACF regulatory provisions are provided in CARB's request to EPA, CARB's ''Staff Report: Initial Statement of Reasons'' (Staff Report), the Notices of Public Availability of Modified Text and Additional Documents and Information

[1] The Advanced Clean Fleets regulations are comprised of new title 13, California Code of Regulations (Cal. Code Regs.) sections 2013 through 2013.4, sections 2014 through 2014.3, sections 2015 through 2015.6, and section 2016.

(Notices of Public Availability), and the Final Statement of Reasons (FSOR).[2]

CARB requests that EPA grant a new waiver for the ACF on-road regulatory program. CARB's request and waiver analysis includes ''a description of California's rulemaking action, a review of the criteria governing EPA's evaluation of California's request for waiver and authorization action, [CARB's] analysis and rationale supporting [its] request, and supporting documents.'' [3] CARB's waiver analysis, set forth in its ACF Waiver and Authorization Support Document, addresses how the ACF on-road regulations and CARB's waiver request meet each of the three waiver criteria in section 209(b)(1) of the CAA.[4] For example, CARB explains how the ACF on-road regulations will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and welfare than applicable Federal standards and that no basis exists for the Administrator of EPA to find that CARB's determination is arbitrary and capricious under section 209(b)(1)(A) of the CAA.[5] CARB also explains how it continues to demonstrate California's need for a separate motor vehicle emission program, including the ACF on-road regulations contained in its waiver request, under section 209(b)(1)(B) of the CAA.[6] Finally, CARB explains how the ACF on-road regulations in its waiver request meet the requirement in section 209(b)(1)(C), which requires California's regulations to be consistent with section 202(a) of the CAA.[7]

CARB also requests that EPA grant a new authorization for the ACF off-road regulatory program. CARB's authorization analysis, set forth in its ACF Waiver and Authorization Support Document, addresses how the ACF off-road regulations and CARB's authorization request meet each of the three authorization criteria in section 209(e)(2)(A) of the CAA.[8] For example, CARB explains how the ACF off-road regulations will not cause California off-road vehicle and equipment emission standards, in the aggregate, to be less protective of public health and welfare than applicable Federal standards and that no basis exists for the Administrator of EPA to find that CARB's determination is arbitrary and capricious under section 209(e)(2)(A)(1) of the CAA.[9] CARB also explains how it continues to demonstrate California's need for a separate off-road vehicle and equipment emission program, including the ACF off-road regulations contained in its authorization request, under section 209(e)(2)(A)(2) of the CAA.[10] Finally, CARB explains how the ACF off-road regulations in its authorization request meet the requirement in section 209(e)(2)(A)(3), which requires California's regulations to be consistent with section 209 of the CAA.[11]

II. Scope of Preemption and Criteria for a Waiver and Authorization Under the Clean Air Act

Section 209(a) of the Clean Air Act, as amended (''Act''), 42 U.S.C. 7543(a), provides:

> No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any state that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the state determines that the state standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. California is the only state that is qualified to seek and receive a waiver under section 209(b).[12] Section 209(b)(1) requires the Administrator to grant a waiver unless he finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the state standards to meet compelling and extraordinary conditions, or (C) the state standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. Previous decisions granting waivers of Federal preemption for motor vehicles have stated that State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time period or if the Federal and State test procedures impose inconsistent certification procedures.[13]

Section 209(e)(1) of the CAA prohibits all states and local governments from adopting or attempting to enforce any standard or other requirement relating to the control of emissions from certain types of new nonroad engines or nonroad vehicles, including both ''(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower'' and ''(B) New locomotives or new engines used in locomotives.'' [14] Section 209(e)(2)(A) of the CAA, however, requires the Administrator, after notice and opportunity for public hearing, to authorize California to adopt and enforce standards and other requirements relating to the control of emissions from nonroad engines and vehicles otherwise not prohibited under section 209(e)(1) if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as are applicable Federal standards. However, the EPA shall not grant such authorization if it finds that (1) the determination of California is arbitrary and capricious; (2) California does not need such California standards to meet compelling and extraordinary conditions; or (3) California standards and accompanying enforcement

[2] CARB's Waiver and Authorization Support Document at 6–15 (EPA Docket: EPA–HQ–OAR–2023–0589). The Staff Report, Notices of Public Availability, and FSOR are also located in EPA's docket.

[3] Letter from Steven S. Cliff, CARB, dated November 15, 2023, EPA–HQ–OAR–2023–0589. The ACF Waiver and Authorization Support Document, attached to the letter from Mr. Cliff, are both available at EPA–HQ–OAR–2023–0589.

[4] The ACF Waiver and Authorization Support Document provides a summary of the adopted regulations, a brief history of similar regulations, and an analysis of the adopted regulations under the waiver criteria in section 209(b)(1) of the CAA.

[5] ACF Waiver and Authorization Support Document at 21–24.

[6] *Id.* at 32–30.

[7] *Id.* at 30–45.

[8] The ACF Waiver and Authorization Support Document provides a summary of the adopted ACF off-road regulations and an analysis of the adopted regulation under the authorization criteria in section 209(e)(2)(A) of the CAA.

[9] ACF Waiver and Authorization Support Document at 45.

[10] *Id.* at 46–47.

[11] *Id.* at 47–49.

[12] ''The language of the statute and its legislative history indicate that California's regulations, and California's determination that they comply with the statute, when presented to the Administrator are presumed to satisfy the waiver requirements and that the burden of proving otherwise is on whoever attacks them.'' *Motor and Equipment Mfrs. Ass'n* v. *EPA,* 627 F.2d 1095, 1121 (D.C. Cir. 1979).

[13] To be consistent, the California certification procedures need not be identical to the Federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet the State and the Federal requirements with the same test vehicle in the course of the same test. *See, e.g.,* 43 FR 32182 (July 25, 1978).

[14] 42 U.S.C. 7543(e)(1).

procedures are not consistent with [CAA section 209].[15]

On July 20, 1994, the EPA promulgated a rule that sets forth, among other things, regulations providing the criteria, as found in section 209(e)(2)(A), that the EPA must consider before granting any California authorization request for nonroad engine or vehicle emission standards.[16] The EPA revised these regulations in 1997.[17] The criteria for granting California authorization requests, as reflected in section 209(e)(2)(A), can be found at 40 CFR 1074.105.

As stated in the preamble to the 1994 rule, the EPA has historically interpreted the section 209(e)(2)(A)(iii) ''consistency'' inquiry (see 40 CFR 1074.105(b)(3)) to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as the EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers).[18]

In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation (such as ''. . . any standard or other requirement relating to the control of emissions from . . . (A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower. (B) New locomotives or new engines used in locomotives.'').

To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same ''consistency'' criteria that are applied to motor vehicle waiver requests. Pursuant to section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if he finds that California ''standards and accompanying enforcement procedures are not consistent with section 202(a)'' of the Act. Previous decisions granting waivers and authorizations have noted that state standards and enforcement procedures are inconsistent with section 202(a) if: (1) there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the federal and state testing procedures impose inconsistent certification requirements.[19]

III. EPA's Request for Comments

When EPA receives new waiver or authorization requests from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment and then, after the comment period has closed, publishes a notice of its decision in the **Federal Register**.

EPA invites comment on the following three waiver criteria as applicable to CARB's ACF on-road regulations: whether (a) California's determination that its motor vehicle emission standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious, (b) California needs such standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Clean Air Act.

With regard to section 209(b)(1)(B), EPA must grant a waiver request unless the Agency finds that California ''does not need such State standards to meet compelling and extraordinary conditions.'' EPA has interpreted the phrase ''need[s] such State standards to meet compelling and extraordinary conditions'' to mean that California needs a separate motor vehicle program as a whole in order to address environmental problems caused by conditions specific to California and/or effects unique to California (the ''traditional'' interpretation).[20] EPA intends to use this traditional interpretation in evaluating California's need for the ACF regulations under section 209(b)(1)(B).

With regard to section 209(b)(1)(C), EPA must grant a waiver request unless the Agency finds that California's standards are not consistent with section 202(a). EPA has previously stated that consistency with section 202(a) requires that California's standards must be technologically feasible within the lead time provided, giving due consideration to costs, and that California and applicable Federal test procedures be consistent.[21]

We also request comment on whether the ACF off-road regulations meet the criteria for an EPA authorization. Specifically, we request comment on: (a) whether CARB's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious, (b) whether California needs such standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 209 of the Act. As explained above, the EPA considers several provisions with regard to the consistency with section 209 of the Act criterion.

IV. Procedures for Public Participation

The virtual public hearing will be held on August 14, 2024. The hearing will begin at 10:00 a.m. Eastern Daylight Time (EDT) and end when all parties who wish to speak have had an opportunity to do so.

All hearing attendees (including even those who do not intend to provide testimony), should register for the public hearing by August 7, 2024. Information on how to register for the virtual public hearing regarding the ACF waiver and authorization request can be found at: *https://www.epa.gov/regulations-emissions-vehicles-and-engines/virtual-public-hearing-californias-advanced-clean-fleet.* If you require the services of a translator or special accommodations such as American Sign Language, please pre-register for the hearing and describe your needs by August 7, 2024. The EPA may not be able to arrange accommodations without advance notice.

[15] 42 U.S.C. 7543(e)(2)(A).

[16] 59 FR 36969 (July 20, 1994).

[17] 62 FR 67733 (December 30, 1997). The preemption regulations were later transcribed at 40 CFR part 1074; see 73 FR 59034 (October 8, 2008).

[18] 59 FR 36969 (July 20, 1994).

[19] 78 FR 58090, 58092 (September 20, 2013).

[20] *See, e.g.,* 81 FR 78149, 78153 (November 7, 2016); 81 FR 95982, 95985–86 (December 29, 2016). EPA recently found and confirmed, in the Agency's reconsideration of a previous withdrawal of a waiver of preemption for CARB's Advanced Clean Car program, that the traditional interpretation of section 209(b)(1)(B) was appropriate and continues to be a better interpretation. 87 FR 14332, 14367 (March 14, 2022). CARB's November 15, 2023, waiver request addresses both the traditional and an alternative interpretation wherein the need for the specific standards in the waiver request would be evaluated.

[21] *See, e.g.,* 81 FR 78149, 78153–54 (November 7, 2016) (''EPA has previously stated that the determination is limited to whether those opposed to the waiver have met their burden of establishing that California's standards are technologically infeasible, or that California's test procedures impose requirements inconsistent with the federal test procedure. Infeasibility would be shown here by demonstrating that there is inadequate lead time to permit the development of technology necessary to meet the 2013 HD OBD New or Stricter Requirements that are subject to the waiver request, giving appropriate consideration to the cost of compliance within that time.'' (citing 38 FR 30136 (November 1, 1973) and 40 FR 30311 (July 18, 1975)); 81 FR 95982, 95986 (December 29, 2016); 70 FR 50322 (August 26, 2005).

Please note that any updates made to any aspect of the ACF waiver and authorization hearing will be posted online at: *https://www.epa.gov/regulations-emissions-vehicles-and-engines/virtual-public-hearing-californias-advanced-clean-fleet.*While the EPA expects the hearing to go forward as set forth above, please monitor the hearing website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

Each commenter will have 3 minutes to provide oral testimony. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. The EPA recommends submitting the text of your oral comments as written comments to the docket. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing for the respective authorization request. The Agency will make a verbatim record of the proceedings at the hearing that will be placed in the docket. The EPA will keep the record open until September 16, 2024. After expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, relevant written submissions, and other information that he deems pertinent.

William Charmley,

Director, Assessment and Standards Division, Office of Transportation and Air Quality.

[FR Doc. 2024–15343 Filed 7–11–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

DEPARTMENT OF THE TREASURY

Study and Report to Congress on the Impact on Consumers and Markets in the United States of a Final International Insurance Capital Standard

AGENCY: Board of Governors of the Federal Reserve System and Federal Insurance Office, Department of the Treasury.

ACTION: Notice of commencement of report drafting.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) and the Federal Insurance Office (FIO) of the Department of the Treasury (together, the agencies) are providing notice that the agencies intend to commence drafting a report to Congress on the impact on consumers and markets in the United States before supporting or consenting to the adoption of any final international insurance capital standard. This report is contemplated by section 211(c)(3) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).

DATES: The agencies intend to commence drafting the report after July 12, 2024.

FOR FURTHER INFORMATION CONTACT:

Board: Lara Lylozian, Deputy Associate Director and Chief Accountant, (202) 475–6656; or Matt Walker, Manager, Insurance Supervision & Regulation, (202) 872–4971, Division of Supervision and Regulation; or Dafina Stewart, Deputy Associate General Counsel, (202) 452–2677; Andrew Hartlage, Special Counsel, (202) 452–6483; Jonah Kind, Senior Counsel, (202) 452–2045; or Jasmin Keskinen, Senior Attorney, (202) 475–6650, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

Treasury: Krishna Kundu, Senior Insurance Regulatory Policy Analyst, FIO, (202) 622–2753; or Mark Schlegel, Senior Counsel, Office of the General Counsel, Department of the Treasury, (202) 622–1027, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Under section 211(c)(3)(A) of EGRRCPA,[1] the Secretary of the Treasury (the Secretary), the Chair of the Board (the Chair), and the Director of FIO must, in consultation with the National Association of Insurance Commissioners, complete a study on, and submit to Congress a report on the results of the study, the impact on consumers and markets in the United States before supporting or consenting to the adoption of any final international insurance capital standard. In addition, under section 211(c)(3)(B)(i) of EGRRCPA, the Secretary, the Chair, and the Director of FIO must provide public notice before the date on which drafting a report required under subparagraph (A) is commenced.[2]

As background, the International Association of Insurance Supervisors (IAIS) is developing the Insurance Capital Standard (ICS) as a consolidated group-wide capital standard for internationally active insurance groups, for the purposes of creating a common language for supervisory discussions of group solvency and enhancing global convergence among group capital standards.[3] The IAIS also is assessing whether the Aggregation Method under development by the United States provides comparable outcomes to the ICS, and if so, will be considered an outcome-equivalent approach for implementation of the ICS as a prescribed capital requirement.[4]

The agencies hereby give notice that they intend to commence drafting the report contemplated in section 211(c)(3)(A) after July 12, 2024.

Kayla Arslanian,

Executive Secretary, Department of the Treasury.

Steven E. Seitz,

Director, Federal Insurance Office, Department of the Treasury.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024–15348 Filed 7–11–24; 8:45 am]

BILLING CODE 6210–01–P; 4810–AK–P

[1] 31 U.S.C. 313 note.

[2] *Id.*

[3] International Association of Insurance Supervisors, *https://www.iaisweb.org/activities-topics/standard-setting/insurance-capital-standard/.*

[4] IAIS statement, ''The IAIS begins the AM comparability assessment,'' October 17, 2023, *https://www.iaisweb.org/uploads/2023/10/IAIS-statement-IAIS-begins-the-AM-comparability-assessment.pdf.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for Office of Management and Budget (OMB) Review; Community Services Block Grant (CSBG) Model State Plan Applications (OMB No. 0970–0382)

AGENCY: Office of Community Services, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Community Services (OCS), Administration for Children and Families (ACF) requests a 3-year extension of the Community Services Block Grant (CSBG) State Plan, CSBG Eligible Entity Master List, and the American Customer Survey Index (ACSI) forms (OMB #0970–0382, expiration 8/31/2024). There are no changes requested to these information collections.

DATES: *Comments due within 30 days of publication.* OMB must make a decision regarding the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Section 676 of the CSBG Act requires States, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories applying for CSBG funds to submit an application and plan (CSBG State Plan). The CSBG State Plan must meet statutory requirements prior to OCS awarding CSBG grant recipients (States and territories) with CSBG funds. Grant recipients have the option to submit a detailed plan annually or biannually. Grant recipients that submit a biannual plan must provide an abbreviated plan the following year if substantial changes to the initial plan will occur. OCS is not requesting any changes to this form. As this will be the 11th year of submitting this form, OCS does not anticipate any additional burden.

OCS is also requesting to extend approval of the following information collections, with no changes proposed:

- *CSBG Eligible Entity List.* In alignment with Federal requirements, OCS requests that all grant recipients continue to keep their CSBG Eligible Entity List current, to include maintaining an accurate listing of the CSBG sub-grant recipients (CSBG eligible entities) and current Unique Entity Identifier (UEI) for each recipient listed. This is in alignment with current policies and processes, and therefore OCS does not anticipate any additional burden.
- *Optional survey for the sub-grant recipients (or CSBG-eligible entities).* The American Customer Survey Index (ACSI) is administered biennially. OCS uses the ACSI survey for eligible entities as part of the CSBG performance management framework. The survey focuses on the customer service that the CSBG sub-grant recipients receive from the CSBG grant recipients. The survey is optional, and this will be the seventh time that CSBG sub-grant recipients have the option to complete the survey. There were no revisions to the survey.

OCS anticipates submitting a subsequent revision to this information collection, pending OMB review and approval of a separate but related information collection request (CSBG Annual Report, OMB No. 0970–0492) that is forthcoming and expected in summer 2024 and may result in minor updates to some of these materials.

Respondents: State governments, including the District of Columbia and the Commonwealth of Puerto Rico, and U.S. territories, and local level sub-grant recipients.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
CSBG State Plan	56	3	28	4,704	1,568
CSBG Eligible Entity List	56	3	1	168	56
Estimated Total Annual Burden Hours for CSBG Grant Recipients					1,624
CSBG ACSI Survey of CSBG Eligible Entities	1,000	2	.15	300	100
Estimated Total Annual Burden Hours for CSBG sub-grant recipients					100
Estimated Total Annual Burden Hours for All Respondents					1,724

Authority: Sec. 676, Public Law 105–285, 112 Stat. 2735 (42 U.S.C. 9908).

Mary C. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2024–15368 Filed 7–11–24; 8:45 am]

BILLING CODE 4184–27–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2024–D–2511 and FDA–2024–D–2512]

Dental Composite Resin Devices and Dental Curing Lights—Premarket Notification (510(k)) Submissions Guidances; Draft Guidances for Industry and Food and Drug Administration Staff; 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 two draft guidances entitled ''Dental Composite Resin Devices—Premarket Notification (510(k)) Submissions'' and ''Dental Curing Lights—Premarket Notification (510(k)) Submissions.'' These draft guidance documents provide recommendations for device description, performance testing, and labeling to include in 510(k) submissions for dental composite resin devices and dental curing lights. When final, these guidances will supersede the guidances ''Dental Composite Resin Devices—Premarket Notification [510(k)] Submissions'' dated October 26, 2005 and ''Dental Curing Lights—Premarket Notification [510(k)] Submissions'' dated March 27, 2006. The recommendations in these draft guidances are intended to promote consistency and facilitate efficient review of these submissions. These draft guidances are not final nor are they for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by September 10, 2024 to ensure that the Agency considers your comment on the draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–D–2511 for ''Dental Composite Resin Devices—Premarket Notification (510(k)) Submissions'' or the Docket No. FDA–2024–D–2512 for ''Dental Curing Lights—Premarket Notification (510(k)) Submissions.'' 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)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Dental Composite Resin Devices—Premarket Notification (510(k)) Submissions'' or ''Dental Curing Lights—Premarket Notification (510(k)) Submissions'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Michael Adjodha, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G304, Silver Spring, MD 20993–0002, 301–796–6276.

SUPPLEMENTARY INFORMATION:

I. Background

These draft guidance documents provide recommendations for device description, performance testing, and labeling to include in 510(k) submissions for dental composite resin devices and dental curing lights. Dental composite resin devices are devices intended to fill and restore defects or carious lesions in teeth. The device may be supplied as a two-part base and catalyst system that is self-cured or a one-part system that is cured via photoinitiation. Dental curing lights are devices that emit non-ionizing optical radiation intended to photopolymerize dental restorative resins. These guidances, when final, will supersede ''Dental Composite Resin Devices—Premarket Notification [510(k)] Submissions'' dated October 26, 2005 and ''Dental Curing Lights—Premarket Notification [510(k)] Submissions'' dated March 27, 2006. The recommendations in these draft guidances are intended to promote consistency and facilitate efficient review of these submissions.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on Dental Composite Resin Devices—Premarket Notification (510(k)) Submissions and Dental Curing Lights—Premarket Notification (510(k)) Submissions. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining copies of the draft guidances may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* These guidance documents are also available at *https://www.regulations.gov* and

https://www.fda.gov/regulatory-information/search-fda-guidance-documents. Persons unable to download an electronic copy of ''Dental Composite Resin Devices—Premarket Notification (510(k)) Submissions (document number GUI00016050)'' or ''Dental Curing Lights—Premarket Notification (510(k)) Submissions (document number GUI00016017)'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While these guidances contain no new collection of information, they do 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 the following table have been approved by OMB:

21 CFR part or guidance	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
812	Investigational Device Exemption	0910–0078
''Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program''.	Q-submissions and Early Payor Feedback Request Programs for Medical Devices.	0910–0756
800, 801, 809, and 830	Medical Device Labeling Regulations; Unique Device Identification.	0910–0485
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073
50, 56	Protection of Human Subjects and Institutional Review Boards	0910–0130

Dated: July 9, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–15337 Filed 7–11–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer National Cancer Institute (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide an opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact Tali Johnson, Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, Division of Cancer Diagnosis and Treatment, National Cancer Institute, 9609 Medical Center Drive, Bethesda, Maryland 20892 or call non-toll-free number (240) 276–6575 or Email your request, including your address to: *tmjohnson@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires written comments and/or suggestions from the public, and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer, 0925–0613, Expiration Date 1/31/2025, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for OMB to approve the revision of the collection titled ''Investigational Agent Accountability Record Forms in the Conduct of Investigational Trials for the Treatment of Cancer National Cancer Institute (NCI)'' for an additional three years of data collection. The U.S. Food and Drug Administration (FDA) holds the National Cancer Institute (NCI), Division of Cancer Treatment and Diagnosis/Cancer Therapy Evaluation Program (NCI/DCTD/CTEP), and the Division of Cancer Prevention (DCP) responsible as a sponsor of investigational drug trials, to assure the FDA that investigators in its clinical trials program are maintaining systems for accountability. Data obtained from the Investigational Agent Accountability Record Forms (aka. Drug Accountability Record Forms—DARF) are used to track the dispensing of investigational anticancer agents from receipt from the NCI to dispensing or administration to patients. Requirements for tracking investigational agents under an Investigational New Drug Application are outlined in title 21 Code of Federal Regulations (CFR) part 312. NCI and/or its auditors use this information to ensure compliance with federal regulations and NCI policies. This revision removes the International Investigator Statement (IIS) form as it was transitioned to the CTEP Branch and Support Contracts Forms and Surveys (OMB#0925–0753) submission.

OMB approval is requested for 3 years. There are no costs to respondents

other than their time. The total estimated annualized burden is 4,166 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
A1: Investigational Agent Accountability Record Form (DARF).	Individuals	1,000	20	4/60	1,333
A2: Investigational Agent Accountability Record for Oral Agents Form (DARF-Oral).	Individuals	1,500	20	4/60	2,000
A3: Electronic Agent Accountability Record Form (eDARF).	Individuals	2,500	20	1/60	833
Totals		5,000	100,000		4,166

Dated: July 9, 2024.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2024–15352 Filed 7–11–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Joint Meeting of the National Advisory Councils

AGENCY: Substance Abuse and Mental Health Services Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given of the combined (joint) meeting on August 28, 2024, of the Substance Abuse and Mental Health Services Administration's (SAMHSA) national advisory councils: the SAMHSA National Advisory Council (NAC), the Center for Mental Health Services NAC, the Center for Substance Abuse Prevention NAC, the Center for Substance Abuse Treatment NAC; and the two SAMHSA advisory committees: Advisory Committee for Women's Services (ACWS) and the Tribal Technical Advisory Committee (TTAC).

SUPPLEMENTARY INFORMATION: The meeting will include remarks from the Assistant Secretary for Mental Health and Substance Use; follow up from the JNAC meeting of February 28, 2024; updates from the individual council meetings of August 27, 2024; presentations and discussions on the following topics: Youth Engagement Efforts, Criminal Justice, Suicide Prevention, general Council discussion and Public Comments.

The meeting is open to the public and will be held at the Hubert H. Humphrey Building, 200 Independence Ave. SW, Washington, DC 20201, Room 505A. Attendance by the public will be limited to space availability. Interested persons may present data, information, or views orally or in writing, on issues pending before the Council. Written submissions should be forwarded to the contact person by August 21, 2024. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations must notify the contact by August 21, 2024. Up to three minutes will be allotted for each presentation, as time permits.

The meeting may be accessed via telephone and remotely via Zoom platform and callers must register. To attend on site, obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: *https://snacregister.samhsa.gov,* or communicate with SAMHSA's Committee Management Officer, Carlos Castillo (see contact information below).

Meeting agenda with call-in information will be posted before the meeting, and additional information may be obtained by accessing the SAMHSA advisory councils web page: *https://www.samhsa.gov/about-us/advisory-councils.*

Council Names:

Substance Abuse and Mental Health Services
Administration National Advisory Council
Center for Mental Health Services National Advisory Council
Center for Substance Abuse Prevention National Advisory Council
Center for Substance Abuse Treatment National Advisory Council
Advisory Committee for Women's Services
Tribal Technical Advisory Committee

Date/Time/Type: August 28, 2024, 9:00 a.m. to 4:30 p.m. EDT, Open.

Place: 200 Independence Ave. SW, Washington, DC 20201, Room 505A.

Contact: Carlos Castillo, Committee Management Officer, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–2787, Email: *carlos.castillo@samhsa.hhs.gov.*

SAMHSA's National Advisory Councils were established to advise the Secretary, Department of Health and Human Services (HHS); the Assistant Secretary for Mental Health and Substance Use, SAMHSA; and SAMHSA's Center Directors concerning matters relating to the activities carried out by and through the Centers and the policies respecting such activities.

Under section 501 of the Public Health Service Act, the ACWS is statutorily mandated to advise the SAMHSA Assistant Secretary for Mental Health and Substance Use and the Associate Administrator for Women's Services on appropriate activities to be undertaken by SAMHSA and its Centers with respect to women's substance abuse and mental health services.

Pursuant to Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of September 23, 2004, SAMHSA established the TTAC for working with Federally recognized Tribes to enhance the government-to-government relationship, and honor Federal trust responsibilities and obligations to Tribes and American Indian and Alaska Natives. The SAMHSA TTAC serves as an advisory body to SAMHSA.

Authority: Public Law 92–463.

Dated: July 8, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024–15311 Filed 7–11–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration's Tribal Technical Advisory Committee (TTAC)

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given for the meeting on August 27, 2024, of the Substance Abuse and Mental Health Services Administration's Tribal Technical Advisory Committee (TTAC).

The meeting is open to the public and will be held virtually. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include, but not be limited to, remarks from the Assistant Secretary for Mental Health and Substance Use; updates on SAMHSA priorities; follow up on topics related to the previous TTAC meetings; planning for the in-person September 2024 meeting; and council discussions.

DATES: August 27, 2024, from 1:00 p.m. to approximately 4:30 p.m. EDT, Open.

FOR FURTHER INFORMATION CONTACT: Karen Hearod, CAPT USPHS, Director, Office of Tribal Affairs Policy, 5600 Fishers Lane, Rockville, Maryland 20857 (mail); telephone: (202) 868–9931; email: *karen.hearod@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: SAMHSA TTAC provides a venue wherein Tribal leadership and SAMHSA staff can exchange information about public health issues, identify urgent mental health and substance use conditions, and discuss collaborative approaches to addressing these behavioral health needs.

TTAC meetings are exclusively between federal officials and elected officials of Tribal governments (or their designated employees) to exchange views, information, or advice related to the management or implementation of SAMHSA programs.

The public may attend but are not allowed to participate in the meeting.

To obtain the call-in number, access code, and/or web access link; or request special accommodations for persons with disabilities, please register on-line at: *https://snacregister.samhsa.gov,* or communicate with Karen Hearod.

Meeting information and a roster of TTAC members may be obtained either by accessing the SAMHSA Council's website at: *https://www.samhsa.gov/about-us/advisory-councils,* or by contacting Karen Hearod.

Authority: Executive Order No. 13175.

Dated: July 9, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024–15344 Filed 7–11–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given for the meeting on August 29, 2024, of the Substance Abuse and Mental Health Services Administration National Advisory Council (SAMHSA NAC). The meeting is open to the public and can also be accessed virtually. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include, but not be limited to, remarks from the Assistant Secretary for Mental Health and Substance Use; consideration and approval of the meeting minutes of February 29, 2024; a recap of the Joint meetings of the councils (JNAC) of August 28, 2024, and Lessons Learned. There will be presentations with council discussions on the following topics: Older Adults, Workforce, Legislative updates, OMTO, Budget, and Credentialing Work.

DATES: August 29, 2024, 10 a.m. to approximately 4 p.m. EDT, Open.

ADDRESSES: 200 Independence Ave SW, Washington, DC 20201, Room 505A.

FOR FURTHER INFORMATION CONTACT: Carlos Castillo, Designated Federal Officer; SAMHSA National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail); telephone: (240) 276–2787; email: *carlos.castillo@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: The SAMHSA NAC was established to advise the Secretary, Department of Health and Human Services (HHS), and the Assistant Secretary for Mental Health and Substance Use, SAMHSA, to improve the provision of treatments and related services to individuals with respect to substance use and to improve prevention services, promote mental health, and protect legal rights of individuals with mental illness and individuals with substance use disorders or misuse.

Interested persons may present data, information, or views orally or in writing, on issues pending before the Council. Written submissions must be forwarded to the contact person no later than 7 days before the meeting. Oral presentations from the public will be scheduled for the public comment section at the end of the council discussion. Individuals interested in making oral presentations must notify the contact person by 1 p.m. (EDT), August 22, 2024. Up to three minutes will be allotted for each presentation, and as time permits, as these are presented in the order received. Public comments received will become part of the meeting records.

To obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: *https://snacregister.samhsa.gov,* or communicate with the contact person.

Meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council's website at *https://www.samhsa.gov/about-us/advisory-councils/,* or by contacting Carlos Castillo.

Authority: Public Law 92–463.

Dated: July 8, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024–15312 Filed 7–11–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0040]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Employment Authorization

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information

collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until August 12, 2024.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2005–0035. All submissions received must include the OMB Control Number 1615–0040 in the body of the letter, the agency name and Docket ID USCIS–2005–0035.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

DHS previously published an information collection notice within the Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status (RIN 1615–AA59) final rule in the **Federal Register** on April 30, 2024, at 89 FR 34864, allowing for a 60-day public comment period. USCIS did receive 3 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2005–0035 in the search box. Comments must be submitted in English, or an English translation must be provided. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–765; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households.* Form I–765 collects information needed to determine if a noncitizen is eligible for an initial EAD, a replacement EAD, or a subsequent EAD upon the expiration of a previous EAD under the same eligibility category. Noncitizens in many immigration statuses are required to possess an EAD as evidence of work authorization. To be authorized for employment, a noncitizen must be lawfully admitted for permanent residence or authorized to be so employed by the Immigration and Nationality Act (INA) or under regulations issued by DHS. Pursuant to statutory or regulatory authorization, certain classes of noncitizens are authorized to be employed in the United States without restrictions as to location or type of employment as a condition of their admission or subsequent change to one of the indicated classes. USCIS may determine the validity period assigned to any document issued evidencing a noncitizen's authorization to work in the United States. These classes of noncitizens authorized to accept employment are listed in 8 CFR 274a.12.

USCIS also collects biometric information from certain EAD applicants, from whom USCIS has not previously collected biometrics in connection with an underlying application or petition, to verify the applicant's identity, check or update their background information, and produce the EAD card.

Instead of going to a Social Security Office, an applicant for employment authorization can apply for a Social Security Number (SSN) and Social Security card using Form I–765. If the relevant data elements on Form I–765 are filled out, USCIS will send the applicant's information to the Social Security Administration (SSA) upon approval of the employment authorization request. If the applicant already has an SSN and requested a Social Security card on Form I–765, SSA will issue a replacement SSN card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–765 (paper) is 1,830,347 and the estimated hour burden per response is 4.38 hours; the estimated total number of respondents for the information collection I–765 (online) is 455,653 and the estimated hour burden per response is 4.00 hours; the estimated total number of respondents for the information collection I–765 Worksheet is 302,000 and the estimated hour burden per response is 0.50 hours; the estimated total number of respondents for the information collection of biometric submission processing is 302,535 and the estimated hour burden per response is 1.17 hours; and the estimated total number of respondents for the information collection of passport-style photos is 2,286,000 and the estimated hour burden per response is 0.50 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual

hour burden associated with this collection is 11,487,798 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $400,895,820.

Dated: July 8, 2024.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2024–15307 Filed 7–11–24; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO4500180111]

Notice of Availability of the Record of Decision for the Final Programmatic Environmental Impact Statement for the Approval of Herbicide Active Ingredients for Use on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Final Environmental Impact Statement (EIS) for the Approval of Herbicide Active Ingredients for Use on Public Lands. The ROD constitutes the decision of the BLM.

DATES: The Assistant Director for Resources and Planning signed the ROD on 7/1/2024.

ADDRESSES: The ROD is available via the internet at *https://go.usa.gov/xtk6a*.

FOR FURTHER INFORMATION CONTACT: Seth Flanigan, Project Manager, telephone: 208–373–4094; email: *sflanigan@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr./Ms. POC's last name. 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: This document provides notice that the BLM has published a ROD for a final programmatic EIS and approved seven additional herbicide active ingredients for use in vegetation treatments on BLM-managed public lands.

Purpose and Need for the Proposed Action

The BLM's purpose and need is to improve the effectiveness of its invasive plant management efforts by allowing the use of Environmental Protection Agency (EPA)-registered active ingredients not currently authorized for use on BLM public lands. Approving additional active ingredients diversifies the BLM's herbicide treatment options and helps meet the purposes that were first identified in the 2007 and 2016 programmatic EISs related to vegetation treatments, which are to make herbicides available for vegetation treatment on public lands and to describe the stipulations that apply to their use.

Decision

The BLM has approved seven additional herbicide active ingredients, including aminocyclopyrachlor, clethodim, fluozifop-p-butyl, flumioxazin, imazamox, indaziflam, and oryzalin, for use in vegetation treatments on public lands. These active ingredients are registered by the EPA. In making this decision, the BLM adopted and relied on Human Health and Ecological Risk Assessments prepared by the U.S. Forest Service.

(Authority: 40 CFR 1506.6)

Sharif Branham,

Assistant Director for Resources and Planning.

[FR Doc. 2024–15279 Filed 7–11–24; 8:45 am]

BILLING CODE 4331–27–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO4500180635]

Notice of Filing of Plats of Survey, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Colorado State Office, Lakewood, Colorado, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the U.S. Forest Service, the National Park Service, and the BLM, are necessary for the management of these lands.

DATES: Unless there are protests of this action, the plats described in this notice will be filed on August 12, 2024.

ADDRESSES: You may submit written protests to the BLM Colorado State Office, Cadastral Survey, P.O. Box 151029, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: David W. Ginther, Chief Cadastral Surveyor for Colorado, telephone: (970) 826–5064; email: *dginther@blm.gov*. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The plat incorporating the field notes of the dependent resurvey in Township 12 South, Range 78 West, Sixth Principal Meridian, Colorado, was accepted on April 22, 2024.

The plat and field notes of the dependent resurvey and survey in partially surveyed Township 4 North, Range 73 West, Sixth Principal Meridian, Colorado, were accepted on May 3, 2024.

The plat and field notes of the of the dependent resurvey and subdivision of sections 13 and 14 in Township 51 North, Range 7 East, New Mexico Principal Meridian, Colorado, were accepted on May 29, 2024.

The plat incorporating the field notes of the dependent resurvey in Township 48 North, Range 8 East, New Mexico Principal Meridian, Colorado, was accepted on June 25, 2024.

A person or party who wishes to protest any of the above surveys must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

Before including your address, phone number, email address, or other personal identifying information in your protest, please be aware that your entire protest, 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: 43 U.S.C. ch. 3)

David W. Ginther,

Chief Cadastral Surveyor.

[FR Doc. 2024–15353 Filed 7–11–24; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO#4500177325]

Notice of Realty Action: Modified Competitive Sale of 7 Parcels of Public Land in Lincoln County and White Pine County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer seven (7) parcels of public land totaling 571.53 acres in Lincoln County and White Pine County by modified competitive sale at no less than each parcel's Fair Market Value (FMV) pursuant to the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA) and the White Pine County Conservation, Recreation, and Development Act of 2006 (WPCCRDA). The sale will be processed in conformance with applicable provisions of the Federal Land Policy and Management Act of 1976 (FLPMA) and BLM regulations.

DATES: The sale will take place on September 12, 2024, at 8:00 a.m., Pacific Time, on the EnergyNet website at: *https://www.EnergyNet.com/govt_listing.pl.* Submit written comments regarding the sale until August 26, 2024. The BLM will publish this Notice of Realty Action once a week for three consecutive weeks in the *Lincoln County Record* and *Ely Times* newspapers. Prior to the sale, a sales matrix will be published on the following website: *https://www.EnergyNet.com/govt_listing.pl.* The sales matrix provides information specific to each sale parcel such as legal description, physical location, encumbrances, acreage, and FMV. The FMV for each parcel will be available in the sales matrix at least 30 days prior to the sale.

The land would not be offered for sale before [INSERT DATE LESS THAN 60 DAYS PRIOR TO THE SALE].

ADDRESSES: Mail written comments to the BLM Ely District Office (EYDO), Special Legislation Program Manager, 702 North Industrial Way, Ely, NV 89301.

FOR FURTHER INFORMATION CONTACT: Melanie Peterson, Special Legislation Program Manager, Ely District Office, by email at *m1peters@blm.gov,* or by telephone at 775–289–1896. Information concerning the sale parcels, including encumbrances of record; appraisals; reservations; procedures and conditions; Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA) documents; and other environmental documents that may appear in the BLM public files for the sale parcels are available for review by appointment only during business hours from 8:00 a.m. to 4:00 p.m. Pacific Time, Monday through Friday, at the BLM EYDO, except during Federal holidays.

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. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: It is the buyer's responsibility to be aware of all applicable Federal, state, and local government laws, regulations, and policies that may affect the subject lands, including any required dedication of lands for public uses. It is the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed future uses. It is the responsibility of the purchaser to be aware through due diligence of those laws, regulations, and policies and to seek any required local approvals for future uses. Buyers should make themselves aware of any Federal or state law or regulation that may impact the future use of the property. Any land lacking access from a public road or highway will be conveyed as such, and acquiring future access will be the responsibility of the buyer.

Of the seven (7) parcels of public lands that the BLM proposes to offer, four (4) are within the Lincoln County jurisdiction and three (3) are within the White Pine County jurisdiction. More specifically, of the four (4) parcels in Lincoln County, one (1) is in the community of Alamo, one (1) is in the community of Caliente, and two (2) are in the community of Panaca, and of the three (3) parcels in White Pine County, two (2) are in the community of Ely and one (1) is in the community of McGill.

The subject public lands for the proposed sale, which aggregate 571.53 acres, are legally described as:

Lincoln County Parcels

NVN–89336

Mount Diablo Meridian, Nevada

T. 6 S., R. 61 E.,
Sec. 29, lots 8 and 9 and S½SW¼NE¼SW¼.

The area described contains 10 acres, according to the official plat of the survey of the said land on file with the BLM.

NVN–92816

Mount Diablo Meridian, Nevada

T. 3 S., R. 67 E.,
Sec. 29, N½SE¼.

The area described contains 80 acres, according to the official plat of the survey of the said land on file with the BLM.

NVN–95800

Mount Diablo Meridian, Nevada

T. 2 S., R. 68 E.,
Sec. 9, SE¼SE¼NE¼.

The area described contains 10 acres, according to the official plat of the survey of the said land on file with the BLM.

NVN–95801

Mount Diablo Meridian, Nevada

T. 2 S., R. 68 E.,
Sec. 9, NE¼SE¼.

The area described contains 40 acres, according to the official plat of the survey of the said land on file with the BLM.

White Pine County Parcels

NVN–89337

Mount Diablo Meridian, Nevada

T. 17 N., R. 64 E.,
Sec. 7, E½SW¼ and SE¼.

The area described contains 240 acres, according to the official plat of the survey of the said lands on file with the BLM.

NVN–94524

Mount Diablo Meridian, Nevada

T. 17 N., R. 63 E.,
Sec. 22, W½SW¼.

The area described contains 80 acres, according to the official plat of the survey of the said land on file with the BLM.

NVN–94525

Mount Diablo Meridian, Nevada

T. 16 N., R. 63 E.,
Sec. 26, lots 6 and 8;
Sec. 35, lot 4, E½NW¼NW¼, E½SW¼NW¼, and SE¼NW¼.

The area described contains 111.53 acres, according to the official plat of the survey of the said land on file with the BLM.

These tracts of public land have been identified for disposal by the BLM in

the Ely District Record of Decision and Approved Resource Management Plan (ROD/RMP), dated August 20, 2008, as referenced in the Lands and Realty objectives LR–8, page 66, LR–11, page 67, and Appendix B. Disposal of the parcels will be conducted consistent with Section 203 of FLPMA; Public Law 108–424, the Lincoln County Conservation, Recreation, and Development Act of 2004 (LCCRDA); and Public Law 109–432, the Tax Relief and Health Care Act of 2006, Title III—White Pine County Conservation, Recreation and County Conservation, Recreation and Development Act (WPCCRDA). These parcels are not required for any other Federal purposes, and their disposal would be in the public interest and meet the intent of the WPCCRDA.

The WPCCRDA (Pub. L. 109–432), section 311(h)(1), provides that Federal land described in subsection (a) of that Act is withdrawn from all forms of entry and appropriation under the public land laws and mining laws; all minerals will be retained by the Federal Government. A Mineral Potential Report was completed on June 7, 2013. A Finding of No Significant Impact and Decision Record, dated September 12, 2019, were completed in connection with this notice of realty action.

According to the LCCRDA (Pub. L. 108–424), section 102(g), lands identified within the Ely Resource Management Plan are withdrawn from location and entry under the mining laws and from operation under the mineral and geothermal leasing laws until such time as the Secretary of the Interior (Secretary) terminates the withdrawal or the lands are patented.

In accordance with the LCCRDA and WPCCRDA, 85 percent of the funds generated by this sale will be used for archaeological resources, natural resource protection, recreation and wilderness planning, and other opportunities in Lincoln and White Pine County respectively. Additionally, five percent of the revenue will go to the State of Nevada General Education Fund and 10 percent of the revenue will go to Lincoln or White Pine County respectively.

The following National Environmental Policy Act documents apply to this proposed land sale. Separate environmental assessments were prepared for the parcels in each county. The Lincoln County parcels are analyzed in DOI–BLM–NV–L030–2015–0027–EA (*https://eplanning.blm.gov/eplanning-ui/project/56542/510*) and DOI–BLM–NV–L030–2015–0026–EA (*https://eplanning.blm.gov/eplanning-ui/project/72496/510*). The White Pine County parcels are analyzed in DOI–BLM–NV–L060–2018–0002–EA (*https://eplanning.blm.gov/eplanning-ui/project/104342/510*).

Submit comments to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including any personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Any comments regarding the proposed sale will be reviewed by the BLM Ely District Office Manager, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of timely adverse comments, this realty action will become the final determination of the Department of the Interior. The use of the modified competitive sale method is consistent with 43 CFR 2711.3–2. Public lands may be offered for sale by modified competitive bidding procedures when the authorized officer determines it is necessary based on public policies. Consistent with Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad,* utilizing an online (internet-based) auction format would maximize the opportunity for public involvement while reducing greenhouse gas emissions that would result from bidders traveling to Ely. In addition, utilizing an online auction would encourage greater participation by qualified bidders.

The regulations at 43 CFR 2711.2 require that qualified conveyees (bidders) must be:

(1) A citizen of the United States 18 years of age or older;

(2) A corporation subject to the laws of any State or of the United States;

(3) A State, State instrumentality, or political subdivision authorized to hold property; or

(4) An entity legally capable of conveying and holding lands or interests therein under the laws of the State of Nevada.

The successful bidder must submit proof of citizenship or articles of incorporation within thirty (30) days from receipt of the acceptance of bid letter. Evidence of United States citizenship is a birth certificate, passport, or naturalization papers. Citizenship documents or articles of incorporation (as applicable) must be provided to the BLM EYDO for each sale.

The EnergyNet auction website is viewable by the public in real-time; however, you must register as a bidder with EnergyNet in advance to submit bids for a parcel during the auction. The online auction website will be active and available for use approximately ten (10) days after the date of this notice and will remain available for viewing until the completion of the auction. The available parcels in this notice will be listed in detail on the EnergyNet website. Interested parties may visit the website at any time.

Potential bidders are encouraged to visit the EnergyNet website at least ten (10) business days prior to the start of the open bidding period to review the bidding instructions available at *https://www.energynet.com/page/Government_Listings_Participation.* Supporting documentation is available on the EnergyNet website to familiarize users to the bidding process and answer frequently asked questions.

Potential bidders may register for the online auction as soon as the auction website is active. To participate in the BLM bidding process, you must register with EnergyNet and obtain a bidder number. Registration for online bidding will be available prior to the sale date on the EnergyNet website at *https://www.EnergyNet.com/govt_listing.pl.* Click on the orange ''Register for Sale'' button on the blue ''Ely District 2024 Land Sale'' banner to register. Then click on the light blue ''View Listings'' button on the ''Ely District 2024 Land Sale'' banner to obtain maps and get information on how to submit online bids via the internet for the sale. A submitted online internet bid is a binding offer to purchase.

To participate in this sale, prospective buyers must create an EnergyNet account, complete the EnergyNet Bidding Terms Agreement, request a bid allowance, and register for the Ely District 2024 Land Sale. EnergyNet may require approximately five (5) business days to determine the bidder's financial qualifications. Additional information on how to register with EnergyNet may be found at *https://www.energynet.com/page/Government_Listings_Participation.*

Assistance with creating an EnergyNet account and registering for the sale is available by contacting the EnergyNet Government Resources Department at 877–351–4488. Use the following link to create a Buyer's Account: *https://www.EnergyNet.com/bidder_reg.pl?registration_choice=government.* After the account is created, follow the link ''Submit Bank Information Online''

and fill in the form with the following information:

- Bank name;
- Banker's name;
- Telephone number of banker;
- Address of bank;
- Requested bid allowance amount.

EnergyNet will verify that the bank is an accredited financial institution and contact the bank to ensure the prospective buyer has the financial means to cover the requested bid allowance. The bidder must contact its banker and grant permission for the banker to speak with EnergyNet about the bidder's bid allowance request. EnergyNet will not request the bidder's account balance nor ask any questions about assets or other lines of credit. EnergyNet will not request the bank account number, nor whether it can withdraw funds.

Payments to the BLM will not be made through EnergyNet. At the conclusion of the bidding period for the final parcel, the bidder with the highest accepted bid during the open auction period (winning bidder) for each parcel will be provided instructions via email by the online auction system on how to make the required payment to the BLM.

In addition, you will be required to pay a service fee to EnergyNet's broker of 1.5 percent of the highest qualifying bid for each parcel purchased by the successful bidder. EnergyNet will submit one invoice via email to each successful bidder for the total amount due to the BLM and a separate invoice for the amount due to EnergyNet's broker.

Bidding will begin at the established FMV of each parcel. Each parcel will have its own unique open bidding period, with start and stop times clearly identified on the auction website. The open bidding period for each parcel will run for 24 hours from start to finish, and only bids placed during this 24-hour period will be accepted. Bidding will close sequentially so that each bidder will know if it is the highest winning bid before subsequent parcels close. The website will display each current high bid, and the high bidder's number.

The online system allows participants to submit maximum bids, which is the highest amount a bidder is willing to pay for each parcel, to enable a bidder to participate in the online auction without having to be logged into the website at the time the auction period closes. The auction website provides a full explanation of placing maximum bids, as well as an explanation of how it works to place bids on your behalf to maintain your high bidder status up to the chosen maximum bid amount. The BLM strongly encourages potential bidders to review the bidding tutorial in the Frequently Asked Questions area on the auction website in advance of the sale. EnergyNet will declare the highest qualifying bid as the high bid. The successful bidder must submit a deposit of no less than 20 percent of the successful bid amount by 4:00 p.m., Pacific Time, immediately following the close of the sale in the form of a certified check, postal money order, electronic fund transfer, bank draft, or cashier's check made payable in U.S. dollars to the ''Department of the Interior, Bureau of Land Management.''

The BLM will send the successful bidder(s) an acceptance of bid letter with detailed information for making payment in full. In accordance with 43 CFR 2711.3–1(d), the successful bidder will forfeit the bid deposit if it fails to pay the full purchase price within 180 days of the sale. The BLM will make no exceptions. The BLM cannot accept the remainder of the bid price at any time following the 180th day after the sale.

If a bidder is the apparent successful bidder with respect to multiple parcels and that bidder fails to submit the minimum 20 percent bid deposit resulting in default on any single parcel following the sale, the BLM may cancel the sale of all parcels to that bidder. If a successful bidder cannot consummate the transaction for any reason, the BLM may consider the second highest bidder to purchase the parcel. If there are no acceptable bids, a parcel may remain available for sale on a future date without further legal notice.

The BLM EYDO must receive requests for escrow instructions a minimum of 30 business days prior to the prospective patentee's scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the BLM EYDO by 4:00 p.m. Pacific Time, 30 days from the date on the acceptance of bid letter. There are no exceptions. To submit a name change, the apparent successful bidder must submit the name change in writing on the Certificate of Eligibility form to the BLM EYDO.

The BLM must receive the remainder of the full bid price for the parcel no later than 4:00 p.m. Pacific Time, within 180 days following the day of the sale. The successful bidder must submit payment in the form of a certified check, postal money order, bank draft, cashier's check, or make available by electronic fund transfer payable in U.S. dollars to the ''Department of the Interior—Bureau of Land Management'' to the BLM EYDO. The BLM will not accept personal checks or other non-certified funds.

Arrangements for electronic fund transfer to the BLM for payment of the balance due must be made a minimum of two weeks prior to the payment date. The BLM will not sign any documents related to 1031 Exchange transactions. The bidder is responsible for timing for completion of such an exchange. The BLM cannot be a party to any 1031 Exchange.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any or all offers to purchase or withdraw any parcel of land or interest therein from sale within 30 days, if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full bid price is paid.

Upon publication of this notice in the **Federal Register**, the described land will also be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of the FLPMA. Upon publication of this notice and until completion of this sale, the BLM will no longer accept land use applications affecting the parcels identified for sale. The parcels may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title or the FMV of the parcels. The segregative effect of this notice terminates upon issuance of a patent or other document of conveyance to such lands, or publication in the **Federal Register** of a termination of the segregation. The total segregation period may not exceed two years unless it is extended by the BLM Nevada State Director prior to the termination date in accordance with 43 CFR 2711.1–2(d).

Terms and Conditions: FLPMA Section 209, 43 U.S.C. 1719(a), states that ''all conveyances of title issued by the Secretary . . . shall reserve to the United States all minerals in the lands.'' The patents, when issued, will contain a mineral reservation to the United States for all minerals.

In response to requests to clarify this mineral reservation as it relates to mineral materials, such as sand and gravel, we refer interested parties to the regulations at 43 CFR 3601.71(b), which provides that the owner of the surface estate of lands with reserved Federal minerals may ''use a minimal amount of mineral materials'' for ''personal use'' within the boundaries of the surface estate without a sales contract or permit.

The regulation provides that all other use, absent statutory or other express authority, requires a sales contract or permit. The BLM refers interested parties to the explanation of this regulatory language in the preamble to the final rule published in the **Federal Register** in 2001, available at *https://www.federalregister.gov/d/01-29001,* which states that minimal use ''would not include large-scale use of mineral materials, even within the boundaries of the surface estate'' (66 FR 58894). Further explanation is contained in the BLM Instruction Memorandum No. 2014–085 (April 23, 2014), available on the BLM's website at *https://www.blm.gov/policy/im-2014-085.*

The following numbered terms and conditions will appear on the conveyance documents for the sale parcels:

(1) All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary are reserved to the United States, together with all necessary access and exit rights.

(2) A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

(3) The parcels are subject to valid existing rights.

(4) The parcels are subject to reservations for roads, public utilities, and flood control purposes, both existing and proposed, in accordance with the local governing entities' transportation plans.

(5) An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or occupations on the patented lands.

To the extent required by law, the parcels are subject to the requirements of Section 120(h) of the CERCLA, as amended. Accordingly, notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor that any hazardous substances have been disposed of or released on the subject properties.

No warranty of any kind, express or implied, is given by the United States as to the title, whether or to what extent the land may be developed, its physical condition, future uses, or any other circumstance or condition. The conveyance of the parcels will not be on a contingency basis.

Authority: 43 CFR 2711.3–2.

Robbie McAboy,

District Manager, Ely District Office.

[FR Doc. 2024–15286 Filed 7–11–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Bureau of Land Management

[BLM_NM_FRN_MO4500178179]

Termination of Preparation of the Environmental Impact Statement for the Farmington Mancos-Gallup Resource Management Plan Amendment, New Mexico

AGENCY: Bureau of Land Management; Bureau of Indian Affairs, Interior.

ACTION: Notice of termination.

SUMMARY: The Bureau of Land Management (BLM) and the Bureau of Indian Affairs (BIA) are terminating the preparation of an environmental impact statement (EIS) for the Farmington Mancos-Gallup Resource Management Plan (RMP) Amendment.

DATES: The EIS development process for the Farmington Mancos-Gallup RMP Amendment is terminated immediately.

FOR FURTHER INFORMATION CONTACT: BLM Farmington Field Office Project Manager Sarah Scott, *sscott@blm.gov,* 505–564–7689 or BIA Navajo Region Office Regional Archeologist/Project Manager Robert Begay, *robert.begay1@bia.gov,* 505–863–8515. 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 for contacting Ms. Scott or Mr. Begay. 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: Pursuant to the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations, the BLM announced its intent to prepare an RMP Amendment and associated EIS on February 25, 2014 (79 FR 10548). On October 21, 2016, the BLM and the BIA published an amended Notice of Intent in the **Federal Register** announcing the addition of the BIA as a joint/co-lead agency for the EIS (81 FR 72819). The purpose of the EIS was to analyze the impacts of additional oil and gas development within the San Juan Basin in northwestern New Mexico, as well as decisions related to lands and realty, BLM-managed lands with wilderness characteristics, and vegetation management. The EIS was also to evaluate alternatives and issues related to the BIA's authority over mineral leasing and associated activity decisions on Navajo Tribal Trust Lands and Navajo Indian allotments. The Notice of Availability for the Draft EIS published in the **Federal Register** on February 28, 2020 (85 FR 12012). The bureaus distributed the Draft EIS to various Federal, State, and local agencies, elected officials, special interest groups, interested individuals, and the media. Due to the COVID–19 pandemic and restrictions placed on in-person meetings, virtual public hearings were held on May 14, 15, 16, and 18, 2020, as well as on August 26, 27, 28, and 29, 2020. Since the initial publication of the Notices of Intent in 2014 and 2016, and the publication of the draft RMP Amendment and EIS in 2020, there have been many changes relevant to the plan amendment and associated EIS, such as a change in the development trends in the San Juan Basin; the withdrawal of 336,404 acres from mineral entry around the Chaco Culture National Historical Park; the preparation of BIA-funded ethnographic studies for the region; the establishment of the Honoring Chaco Initiative; and an increase in outdoor recreation in the region. Given these changes and the extent of revisions necessary to address these changes in the current EIS process, the agencies determined it is impractical to continue the plan amendment effort as currently structured. Therefore, the BLM and BIA hereby terminate preparation of the EIS for the RMP Amendment.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Melanie G. Barnes,

BLM New Mexico State Director,

Deborah S. Shirley,

Acting BIA Navajo Region Director.

[FR Doc. 2024–15278 Filed 7–11–24; 8:45 am]

BILLING CODE 4331–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2024–0003; EEEE500000 245E1700D2 ET1SF0000.EAQ000; OMB Control Number 1014–0023]

Agency Information Collection Activities; Pollution Prevention and Control

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before September 10, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2024–0003 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *nikki.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nikki Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0023 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nikki Mason by email at *nikki.mason@bsee.gov* or by telephone at (703) 787–1607. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct, or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

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 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.

Abstract: This authority and responsibility are among those delegated to BSEE. The regulations at 30 CFR part 250, subpart C requirements concern pollution prevention and control and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The information collected under subpart C is used in our efforts to:

- record the location of items lost overboard to aid in recovery during site clearance activities on the lease;
- conduct operations according to all applicable regulations, requirements, and in a safe and workmanlike manner;
- properly handle for the protection of OCS workers and the environment the discharge or disposal of drill cuttings, sand, and other well solids, including those containing naturally occurring radioactive materials (NORM); and
- inspect facilities daily for the prevention of pollution and ensure that any observed problems are corrected.

Title of Collection: 30 CFR part 250, subpart C, Pollution Prevention and Control.

OMB Control Number: 1014–0023.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 60 Oil and Gas Drilling and Production Operators in the OCS. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 3,273.

Estimated Completion Time per Response: Varies from 1 hour to 134 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 137,940.

Respondent's Obligation: Responses are mandatory.

Frequency of Collection: Submissions are generally on occasion, weekly, and daily.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2024–15324 Filed 7–11–24; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Nand Memory Devices*

and Electronic Devices Containing the Same, DN 3759; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (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 United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.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: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of MimirIP LLC on July 8, 2024. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain nand memory devices and electronic devices containing the same. The complaint names as respondents: Micron Technology Inc. of Boise, ID; Acer Inc. of Taiwan; Acer America Corp. of San Jose, CA; HP, Inc. of Palo Alto, CA; Kingston Technology Company, Inc. of Fountain Valley, CA; Lenovo Group Limited of China; and Lenovo (United States) Inc. of Morrisville, NC. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant 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 requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial 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 requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due, notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3759'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[1] Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. 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,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 8, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–15335 Filed 7–11–24; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 8, 2024, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Colorado in the lawsuit entitled *United States and State of Colorado* v. *Enterprise Gas Processing, LLC, et al.,* Civil Action No. 1:24–cv–1878.

The United States and the State of Colorado jointly filed this lawsuit under the Clean Air Act against Defendants Enterprise Gas Processing, LLC and Enterprise Products Operating LLC, alleging violations of leak detection and repair requirements at a natural gas processing plant in Colorado. The complaint seeks injunctive relief and civil penalties for the defendants' alleged failures to monitor and repair leaking equipment at the natural gas processing plant. The consent decree requires the defendants to perform injunctive relief to address the alleged violations, and pay a $1,000,000 civil penalty. The civil penalty will be split evenly between the United States and the State of Colorado.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Colorado* v. *Enterprise Gas Processing, LLC, et al.,* D.J. Ref. No. 90–5–2–1–11933. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the consent decree, you may request assistance by email or mail to the addresses provided above for submitting comments.

Jason Dunn,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2024–15341 Filed 7–11–24; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0073]

Proposed Extension of Information Collection; Mine Mapping and Records of Opening, Closing, and Reopening of Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information, in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. The Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Mine Mapping and Records of Opening, Closing, and Reopening of Mines.

DATES: All comments must be received on or before September 10, 2024.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below. Please note that late comments received after the deadline will not be considered.

- *Federal E-Rulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2024–0010.
- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.
- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977, as amended (Mine Act), 30 U.S.C. 813(h), authorizes the Mine Safety and Health Administration (MSHA) to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811(a), authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal, metal, and nonmetal mines.

In order to fulfill the statutory mandates to promote miners' health and safety, MSHA requires the collection of information associated with Mine Mapping and Records of Opening, Closing, and Reopening of Mines. The information collection addressed by this notice is intended to ensure that operators maintain up-to-date, accurate mine maps that are available for review and contain the information needed to identify the best alternatives for action during an emergency operation. Coal mine operators routinely use maps to develop safe and effective mine plans, including accurate, up-to-date disaster maps, which mine emergency personnel can use to locate refuges for miners and identify sites of explosion potential.

Mine maps are schematic depictions of critical mine infrastructure, such as water, power, transportation, ventilation, and communication systems. Mine maps describe the current status of an operating mine or provide crucial information about a closed mine that is being reopened. The maps provide essential information for MSHA to plan and conduct mandatory inspections and to review and approve mandatory mine plans including a proposed roof control plan and mine ventilation plan, and permits. Additionally, during a disaster, maps

can be crucial to the safety of the emergency personnel who must enter a mine to begin a search for survivors. Emergency personnel can use the maps to figure out where stationary equipment is placed and where the ground is secured, so that they can quickly begin a rescue operation.

Under 30 CFR parts 75 and 77, mine operators are required to collect information for mapping of mines and for opening, closing, and reopening of mines. MSHA requires mine operators to develop, update, and provide certified coal mine maps and any revisions and supplements. Operators are also required to provide MSHA access to inspect mine maps and to file mine closure maps.

Under section 312 of the Mine Act, 30 U.S.C. 872, the operator of a coal mine is required to have a fireproof repository of an accurate and up-to-date mine map drawn on scale. The map must identify areas of the mine which have been pillared, worked out, or abandoned which are inaccessible or cannot be entered safely and on which no information is available.

Underground Coal Mines

I. Notifications of Opening or Reopening of Underground Coal Mines

Under 30 CFR 75.373, MSHA must be notified and must complete an inspection before an abandoned or inactive mine can be reopened.

Under 30 CFR 75.1721(a), prior to opening, reopening or reactivating a mine, the operator of a new underground coal mine or a mine which has been abandoned or deactivated and is to be reopened or reactivated, must notify the Coal Mine Health and Safety District Manager for the district in which the mine is located of the approximate date of the proposed or actual date of opening, reopening, or reactivating of the mine. The preliminary plans, including a proposed roof control plan, a proposed mine ventilation plan, and a proposed plan for sealing work-out areas as outlined in 30 CFR 75.372, must be submitted to the District Manager in writing and include the required contents listed in 30 CFR 75.1721(b) and (c).

Under 30 CFR 75.372(a), the operator must submit to the District Manager three copies of an up-to-date mine ventilation map at intervals not exceeding 12 months. The map must be certified for its accuracy by a registered engineer or surveyor. Information shown on the mine ventilation map is subject to approval by the District Manager.

Under 30 CFR 75.372(c), MSHA allows the mine map to be used to satisfy the requirements for the ventilation map, provided that all the information required by the ventilation map is contained on the map. Information collection burden associated with ventilation plans in underground coal mines is reported in ICR OMB control number 1219–0088.

II. Revisions of Mine Maps in Underground Coal Mines

Under 30 CFR 75.1200, operator of an underground coal mine is required to have a fireproof repository of an accurate and up-to-date mine map. The required elements of the mine map are listed in 30 CFR 75.1200 and 75.1200–1.

Under 30 CFR 75.1200–2, the scale of mine maps must not be less than 100 or more than 500 feet to the inch. Also, mine traverses must be advanced by closed loop methods of traversing or other equally accurate methods of traversing.

Under 30 CFR 75.1201, mine maps must be made or certified by a registered engineer or surveyor of the State in which the mine is located.

Under 30 CFR 75.1202, mine maps must be kept up-to-date by temporary notations (specified in 75.1202–1(b)) and be revised and supplemented at intervals prescribed by the Secretary (no more than 6 months as specified in 30 CFR 75.1202–1(a)) on the basis of a survey made or certified by a registered engineer or surveyor.

III. Availability of Mine Map

Under 30 CFR 75.1203, mine operator is required to make the coal mine map and any revision and supplement available for inspection by MSHA inspectors, by coal mine inspectors of the State in which the mine is located, by miners in the mine and their representatives and by operators of adjacent coal mines and by persons owning, leasing, or residing on surface areas of the mines or areas adjacent to the mines. Upon request, the operator must furnish to MSHA inspector one or more copies of the map and any revision and supplement. The coal mine operator must keep the map or revision and supplement confidential and must not divulged its contents to any other person, except to the extent necessary to carry out the provisions of the Mine Act and in connection with the functions and responsibilities of MSHA.

IV. Filing of Mine Closure Maps in Underground Coal Mines

Under 30 CFR 75.1204, coal mine operator is required to promptly notify MSHA whenever the operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than 90 days. Within 60 days of the permanent closure or abandonment of the mine, or, when the mine is temporarily closed, upon the expiration of a period of 90 days from the date of closure, the operator must file with MSHA a copy of the mine map revised and supplemented to the date of the closure. The mine map must be certified by a registered surveyor or engineer of the State in which the mine is located and be available for public inspection.

Under 30 CFR 75.1204–1, coal mine operators must give notice of mine closures and file copies of maps with the Coal Mine Safety and Health District Office for the district in which the mine is located.

Surface Coal Mines and Surface Work Areas of Underground Coal Mines

I. Revisions of Mine Maps in Surface Mines

Under 30 CFR 77.1200, the operator must maintain an accurate and up-to-date mine map, at or near the mine, in an area chosen by the mine operator. The map must be on a scale of not less than 100 nor more than 500 feet to the inch. The operator is required to have a duplicate copy on file at a separate and distinct location to minimize the danger of destruction by fire or other hazard. The information required on the mine map is also listed in this section.

Under 30 CFR 77.1201, mine maps must be made or certified by an engineer or surveyor registered by the State in which the mine is located. Under 30 CFR 77.1202, the mine map must be available for inspection by MSHA.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Mine Mapping and Records of Opening, Closing, and Reopening of Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the

use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *https://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *https://www.regulations.gov* and *https://www.reginfo.gov.*

The public may also examine publicly available documents at DOL–MSHA, Office of Standards, Regulations and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the West elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request concerns provisions for Mine Mapping and Records of Opening, Closing, and Reopening of Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0073.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 376.

Frequency: On occasion.

Number of Annual Responses: 1,540.

Annual Burden Hours: 8,308 hours.

Annual Burden Costs: $561,625.

Annual Other Burden Costs: $5,134,836.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at *https://www.reginfo.gov.*

Song-Ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2024–15281 Filed 7–11–24; 8:45 am]

BILLING CODE 4520–43–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Legal Services Corporation (LSC) Board of Directors and its committees will hold their summer 2024 quarterly business meeting July 22–24, 2024. On Monday, July 22, the first meeting will begin at 2:45 p.m. CT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting. On Tuesday, July 23, the first meeting will again begin at 9:00 a.m. CT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting. On Wednesday, July 24, the first meeting will begin at 9:00 a.m. CT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting.

PLACE: Public Notice of Hybrid Meeting.

LSC will conduct its July 22–24, 2024 meetings at The Royal Sonesta Minneapolis Downtown Hotel, 35 S 7th Street, Minneapolis, MN 55402, and virtually via Zoom.

Public Observation: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who wish to participate virtually in the public proceedings may do so by following the directions provided below.

Directions for Open Sessions

Monday, July 22, 2024

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/89974627352?pwd=r1JxQ79wk7QVonjmbZoon5obh2DoSR.1.*
  - *Meeting ID:* 899 7462 7352.
  - *Passcode:* 72224.

Tuesday, July 23, 2024

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/85024931248?pwd=JGFCLLjykSn08OIngH5UbkzsshHiG2.1.*
  - *Meeting ID:* 850 2493 1248.
  - *Passcode:* 72324.

Wednesday, July 24, 2024

- To join the Zoom meeting by computer, please use this link.
  - *https://lsc-gov.zoom.us/j/82442218026?pwd=yl8ajLC8yb9pJXE4xlkkbRXW58JW2n.1.*
  - *Meeting ID:* 824 4221 8026.
  - *Passcode:* 72424.
  - If calling from outside the U.S., find your local number here: *https://lsc-gov.zoom.us/u/acCVpRj1FD.*

Once connected to Zoom, please immediately mute your computer or telephone. Members of the public are asked to keep their computers or telephones muted to eliminate background noise. To avoid disrupting the meetings, please refrain from placing the call on hold if doing so will trigger recorded music or other sound.

From time to time, the Board or Committee Chair may solicit comments from the public. To participate in the meeting during public comment, use the 'raise your hand' or 'chat' functions in Zoom and wait to be recognized by the Chair before stating your questions and/or comments.

Status: Open, except as noted below.

Audit Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to receive a briefing by the Office Compliance and Enforcement on active enforcement matter(s) and follow-up on open investigation referrals from the Office of Inspector General (ACC § VIII A (5)); receive briefings by LSC Management regarding status of TN–4 Service Area and significant grantee oversight activities; to receive a briefing by the Office of Inspector General on the status of open referrals from LSC Management (if appropriate); and to receive a briefing regarding LSC's Systems of Internal Controls that are designed to minimize the risk of fraud, theft, corruption, or misuse of funds (ACC § VIII C (1)).

Finance Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to receive a briefing on the status of Audit Management Letter Comments on HR procedures.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to receive briefings from Management and the Inspector General; the request for the Board to consider and act on the General Counsel's Report on potential and pending litigation involving LSC as well as a list of prospective Leaders Council and Emerging Leaders Council members.

Any portion of the closed session consisting solely of briefings does not

fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session.[1]

A verbatim written transcript will be made of the closed sessions of the Audit, Finance, and the Board of Directors meetings. The transcript of any portions of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), (7), (9) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Meeting Schedule

Monday, July 22, 2024

Start Time 2:45 p.m. CT

Audit Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Committee's Open Session Meeting on March 25, 2024
3. Approval of the Minutes of the Combined Audit and Finance Committee's Open Session Meeting on April 8, 2024
4. Update on reassessment of the Committee's Charter (Audit Committee Charter § D (2))
5. Briefing by the Office of Inspector General (ACC § VIII A (3) and (ACC § VIII A (4)), to include:
   a. Update on key activities and accomplishments over the last quarter, and overview of plans and key priorities for the next quarter,
   b. Highlights of recently completed audit work, open recommendations as reported in the latest Semi-Annual Report to Congress, ongoing work, and plans for the next quarter, and
   c. Highlights of recently completed investigative work, ongoing work, and plans for the next quarter.
6. Management Update Regarding Risk Management
7. Management Update Regarding Accounting Procedures Manual
8. Briefing about Follow-up by the Office of Compliance and Enforcement on Referrals by the Office of Inspector General Regarding Audit Reports and Annual Financial Statement Audits of Grantees (ACC § VIII A (5))
9. Public Comment
10. Consider and Act on Other Business
11. Consider and Act on Motion to Adjourn the Open Session Meeting and Proceed to a Closed Session Meeting

Portions Closed to the Public

12. Approval of Minutes of the Committee's Closed Session Meeting on March 25, 2024
13. Approval of Minutes of the Combined Audit and Finance Committee's Closed Session Meeting on April 8, 2024
14. Briefing by Office Compliance and Active Enforcement Matter(s) and Follow-Up on Open Investigation Referrals from the Office of Inspector General (ACC § VIII A (5))
15. Briefing by LSC Management Regarding Status of TN–4 Service Area
16. Briefing by LSC Management Regarding Significant Grantee Oversight Activities
17. Briefing by the Office of Inspector General on the Status of Open Referrals from LSC Management (if appropriate)
18. Briefing Regarding LSC's Systems of Internal Controls that are Designed to Minimize the Risk of Fraud, Theft, Corruption, or Misuse of Funds (ACC § VIII C (1))
19. Consider and Act on Motion to Adjourn the Meeting

Monday, July 22, 2024

Start Time 4:30 p.m. CT

Finance Committee

Open to the Public

1. Approval of Agenda
2. Approval of the Minutes of the Finance Committee's Open Session Meeting on April 2, 2024
3. Approval of the Minutes of the Finance Committee's Open Session Meeting on June 11, 2024
4. Approval of the Minutes of the Finance Committee's Open Session Meeting on June 24, 2024
5. Approval of the Minutes of the Combined Audit & Finance Committees' Open Session Meeting on April 8, 2024
6. Report on LSC's Financial Report for the First Eight Months of Fiscal Year 2024 (Period from Oct. 1, 2023 to May 31, 2024)
7. Report on Year-End Projection for Fiscal Year 2024
8. Report on the Fiscal Year 2025 Appropriations Process and Supplemental Appropriations
9. Consider and Act on Resolution *#2024–XXX: Fiscal Year 2025 Temporary Operating Authority*
10. Public Comment
11. Consider and Act on Other Business
12. Consider and Act on Motion to Adjourn the Open Session Meeting and Proceed to a Closed Session

Portions Closed to the Public

13. Approval of the Minutes of the Combined Audit & Finance Committees' Closed Session on April 8, 2024
14. Management Briefing on Status of Audit Management Letter Comments on HR Procedures
15. Consider and Act on Motion to Adjourn the Meeting

Tuesday, July 23, 2024

Start Time 9:00 a.m. CT

Delivery of Legal Services Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Committee's Open Session Meeting on April 2, 2024
3. LSC Performance Criteria Revisions Update
4. Panel Discussion: *Working with Unhoused Clients in Legal Aid* Public Comment
5. Consider and Act on Other Business
6. Consider and Act on a Motion to Adjourn the Meeting

Tuesday, July 23, 2024

Start Time 10:45 a.m. CT

Operations and Regulations Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Committee's Open Session Meeting on April 2, 2024
3. Consider and Act on Final Rule for 45 CFR part 1607—Governing Bodies
4. Consider and Act on Justification Memo for 45 CFR parts 1621—Client Grievance Procedures and 1624—Prohibition Against Discrimination on the Basis of Disability
5. Report on Vendor Management
6. Public Comment
7. Consider and Act on Other Business
8. Consider and Act on Motion to Adjourn Meeting

Wednesday, July 24, 2024

Start Time 9:00 a.m. CT

Communications Subcommittee of the Institutional Advancement Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Subcommittee's Open Session Meeting on March 26, 2024
3. Communications and Social Media Update

[1] 5 U.S.C. 552b (a) (2) and (b). See also 45 CFR 1622.2 & 1622.3.

4. Public Comment
5. Consider and Act on Other Business
6. Consider and Act on Motion to Adjourn the Meeting

Wednesday, July 24, 2024

Start Time 9:45 a.m. CT

Board of Directors

Open to the Public

1. Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes of the Board's Open Session Meeting on April 8, 2024
4. Approval of Minutes of the Board's Open Session Meeting on May 17, 2024
5. Chairman's Report
6. Members' Reports
7. President's Report
8. Briefing from Office of Data Governance & Analysis
9. Inspector General's Report
10. Consider and Act on the Report of the Governance and Performance Review Committee *(Meeting held June 27)*
11. Consider and Act on the Report of the Institutional Advancement Committee *(Meeting held July 11)*
12. Consider and Act on the Report of the Audit Committee
13. Consider and Act on the Report of the Finance Committee
    a. Consider and Act on *Resolution #2024–XXX:Temporary Operating Authority for Fiscal Year 2025*
    b. Consider and Act on *Resolution #2024–XXX: Adopting LSC's Budget Appropriation Request for Fiscal Year 2026*
14. Consider and Act on the Report of the Delivery of Legal Services Committee
15. Consider and Act on the Report of the Operations and Regulations Committee
16. Public Comment
17. Consider and Act on Other Business
18. Consider and Act on Whether to Authorize a Closed Session of the Board to Address Items Listed Below

Portions Closed to the Public

19. Approval of Minutes of the Board's Closed Session Meeting on April 8, 2024
20. Approval of Minutes of the Board's Closed Session Meeting on May 2, 2024
21. Approval of Minutes of the Board's Closed Session Meeting on May 17, 2024
22. Management Briefing
23. Inspector General's Briefing
24. Consider and Act on General Counsel's Report on Potential and Pending Litigation Involving Legal Services Corporation
25. Consider and Act on List of Prospective Leaders Council and Emerging Council Invitees
26. Consider and Act on Motion to Adjourn the Meeting

CONTACT PERSON FOR MORE INFORMATION: Jessica Wechter, Special Assistant to the President, at (202) 295–1626. Questions may also be sent by electronic mail to *wechterj@lsc.gov*.

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at *https://www.lsc.gov/about-lsc/board-meeting-materials.*

(Authority: 5 U.S.C. 552b.)

Dated: July 9, 2024.

Mark Freedman,

Senior Associate General Counsel, Legal Services Corporation.

[FR Doc. 2024–15389 Filed 7–10–24; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 24–045; NASA Docket Number: NASA–2024–0005]

Name of Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by August 12, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice at *www.reginfo.gov/public/do/PRAMain* and search for NASA Docket NASA–2024–0005.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: timeliness; appropriateness; accuracy of information; courtesy; efficiency of service delivery; and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

Authority: NASA is committed to effectively performing the Agency's communication function in accordance with the Space Act Section 203(a)(3) to ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof,'' and to enhance public understanding of, and participation in, the nation's aeronautical and space program in accordance with the NASA Strategic Plan.

II. Methods of Collection

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

The collections are voluntary;

The collections are low-burden for respondents (based on considerations of total burden hours, total number of

respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;

The collections are non-controversial and do not raise issues of concern to other Federal agencies;

Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

Information gathered will only be used internally for general service improvement and program management purposes and is not intended for release outside of the Agency;

Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made; the sampling frame; the sample design (including stratification and clustering); the precision requirements or power calculations that justify the proposed sample size; the expected response rate; methods for assessing potential non-response bias; the protocols for data collection; and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

III. Data

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 2700–0153.

Type of review: Extension of approval for a collection of information.

Affected Public: Federal Government; Individuals and Households; Businesses and Organization; State, Local, or Tribal Government.

Estimated Annual Number of Activities: 70.

Estimated Number of Respondents per Activity: 2,000.

Annual Responses: 140,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 16,800.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–15284 Filed 7–11–24; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on August 29, 2024, to discuss the ACMUI's draft subcommittee report on its review and recommendations on staff's regulatory basis for the rulemaking to amend financial assurance requirements for disposition of category 1–3 byproduct material radioactive sealed sources. Meeting information, including a copy of the agenda and handouts, will be available on the ACMUI's Meetings and Related Documents web page at *https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2024.html* or by emailing Ms. L. Armstead at the contact information below.

Date: August 29, 2024, from 2:00 p.m. to 4:00 p.m. Eastern Time.

Address for Public Meeting: This is a virtual meeting.

Date	Webinar information (Microsoft Teams)
August 29, 2024	*Link: https://teams.microsoft.com/l/meetup-join/19%3ameeting_NmZmMDUwYzgtNTZlYS00YmI1LWI4OGItMjJjMDYyZGRkNTk2%40thread.v2/0?context=%7b%22Tid%22%3a%22e8d01475-c3b5-436a-a065-5def4c64f52e%22%2c%22Oid%22%3a%22304f46bf-32c2-4e0f-912c-878db895e74a%22%7d.* *Meeting ID:* 254 136 027 833. *Passcode:* nxAuiE. *Call in number (audio only):* +301–576–2978, United States, Silver Spring. *Phone Conference ID:* 901 692 104#.

Public Participation: The meeting will be held using Microsoft Teams. Any member of the public who wishes to participate in the meeting via Microsoft Teams or via phone can use the information provided above or should contact Ms. L. Armstead. Members of the public should also monitor the NRC's Public Meeting Schedule at *https://www.nrc.gov/pmns/mtg* for any meeting updates.

Contact Information: Ms. L. Armstead, email: *lxa5@nrc.gov,* telephone: 301–415–1650.

Conduct of the Meeting

The ACMUI Chair, Dr. Hossein Jadvar will preside over the meeting. Dr. Jadvar will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. L. Armstead using the contact information listed above. All submittals must be received by the close of business on August 23, 2024, and must only pertain to the topics on the agenda.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the ACMUI Chair.

3. The draft transcript and meeting summary will be available on ACMUI's website *https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2024.html* on or about September 23, 2024.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. L. Armstead of their planned participation.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily section 161a); the Federal Advisory Committee Act (5 U.S.C. app); and the Commission's regulations in title 10 of the *Code of Federal Regulations,* part 7.

Dated at Rockville, Maryland this 9th day of July, 2024.

For the U.S. Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–15325 Filed 7–11–24; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

International Product Change—Removal of International Money Transfer Service—Outbound and International Money Transfer Service—Inbound

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to remove International Money Transfer Service—Outbound, effective October 1, 2024, and International Money Transfer Service—Inbound, effective October 1, 2025, from the Competitive Product List in the Mail Classification Schedule.

DATES: *Applicable dates:* October 1, 2024, and October 1, 2025.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, 202–268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 39 CFR 3040.130 *et seq.,* on July 5, 2024, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Remove International Money Transfer Service—Outbound and International Money Transfer Service—Inbound from the Competitive Product List* in the Mail Classification Schedule. Documents are available at *www.prc.gov,* Docket No. MC2024–413.

Christopher Doyle,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024–15342 Filed 7–11–24; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–522, OMB Control No. 3235–0586]

Submission for OMB Review; Comment Request; Extension: Rule 38a–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 38a–1 (17 CFR 270.38a–1) under the Investment Company Act of 1940 (15 U.S.C. 80a) (''Investment Company Act'') is intended to protect investors by fostering better fund compliance with securities laws. The rule requires every registered investment company and business development company (''fund'') to: (i) adopt and implement written policies and procedures reasonably designed to prevent violations of the federal securities laws by the fund, including procedures for oversight of compliance by each investment adviser, principal underwriter, administrator, and transfer agent of the fund; (ii) obtain the fund board of directors' approval of those policies and procedures; (iii) annually review the adequacy of those policies and procedures and the policies and procedures of each investment adviser, principal underwriter, administrator, and transfer agent of the fund, and the effectiveness of their implementation; (iv) designate a chief compliance officer to administer the fund's policies and procedures and prepare an annual report to the board that addresses certain specified items relating to the policies and procedures; and (v) maintain for five years the compliance policies and procedures and the chief compliance officer's annual report to the board.

The rule contains certain information collection requirements that are designed to ensure that funds establish and maintain comprehensive, written internal compliance programs. The information collections also assist the Commission's examination staff in assessing the adequacy of funds' compliance programs.

The Commission staff estimates that 13,628 funds are subject to rule 38a–1. Based on these estimates, the total annual burden hours associated with Rule 38a–1 is 476,980 hours. The estimated total annual burden hours associated with rule 38a–1 have increased 25,572 hours, from 451,408 hours to 476,980 hours and external costs increased from $19,608,000 to $23,876,256. These changes in burden hours and external costs reflect changes in the number of affected entities and in the external cost associated with the information collection requirements. These changes reflect revised estimates.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives and is not derived from a comprehensive or even a representative survey or study. Responses will not be kept confidential. Other information provided to the Commission in connection with staff examinations or investigations is kept confidential subject to the provisions of applicable law. If information collected pursuant to rule 38a–1 is reviewed by the Commission's examination staff, it is accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular

information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by August 12, 2024 to (i) *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: July 8, 2024.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–15293 Filed 7–11–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100466; File No. SR–CboeBZX–2024–032]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 11.28(a) To Add Four Additional Market-on-Close Cut-Off Times to Cboe Market Close

July 8, 2024.

On April 29, 2024, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Rule 11.28(a) to add four additional Market-on-Close (''MOC'') Cut-Off Times to Cboe Market Close. On May 13, 2024, the Exchange filed Amendment No. 1, which replaced and superseded the proposed rule change as originally filed. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on May 29, 2024.[3] The Commission has received no comments on the proposed rule change, as modified by Amendment No. 1.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is July 12, 2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates August 27, 2024, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CboeBZX–2024–032).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2024–15310 Filed 7–11–24; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 100129 (May 14, 2024), 89 FR 46428.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20415 and #20416; IOWA Disaster Number IA–20005]

Presidential Declaration Amendment of a Major Disaster for the State of Iowa

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4796–DR), dated 06/24/2024.

Incident: Severe Storms, Flooding, Straight-line Winds, and Tornadoes.

Incident Period: 06/16/2024 and continuing.

DATES: Issued on 07/05/2024.

Physical Loan Application Deadline Date: 08/23/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 03/24/2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Iowa, dated 06/24/2024, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Buena Vista, Cherokee, O'Brien.

Contiguous Counties (Economic Injury Loans Only):

Iowa: Ida, Sac

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–15290 Filed 7–11–24; 8:45 am]

BILLING CODE 8026–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36791]

The Central Railroad Company of Indiana—Trackage Rights Exemption—CSX Transportation, Inc.

The Central Railroad Company of Indiana (CIND), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for CIND's acquisition of trackage rights pursuant to an amendment of an existing trackage rights agreement between CIND and CSX Transportation, Inc. (CSXT). In 1991, CSXT granted CIND overhead trackage rights over approximately 6 miles of rail line.[1] Pursuant to a written amendment to the 1991 agreement,[2] CSXT has agreed to extend the trackage rights by 1,135 feet between Ivorydale Junction and NA Tower (+ − milepost

[1] According to the verified notice, the ''Original Joint Trackage'' consists of: CSXT's Cincinnati Terminal Subdivision via Oklahoma Track, #3 Main Track and #1 and #2 Mains and such other terminal trackage as may from time to time be specified by CSXT, between the connection of Oklahoma Track with the Shelbyville Line near the east end of Storrs Yard at or about milepost BC 1 and the connection of #1 Main with the trackage of Norfolk Southern Railway Company (NSR) at Ivorydale Junction, Ohio.

[2] An executed, redacted version of the 1991 trackage rights agreement and amendment were filed with the verified notice. CIND also submitted under seal an executed, unredacted version of the agreement and amendment and filed a motion for protective order. That motion is addressed in a separate decision.

BB 7.5) to permit CIND to interchange with the Indiana & Ohio Railway Company.[3]

The transaction may be consummated on or after July 27, 2024, the effective date of the exemption (30 days after the verified notice was filed).

As a condition to this exemption, any employees affected by the exempted transaction will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 19, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36791, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CIND's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to CIND, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: July 8, 2024.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2024–15315 Filed 7–11–24; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36793]

Connersville Northern Railroad LLC—Acquisition and Change of Operator Exemption—RMW Ventures, LLC

Connersville Northern Railroad LLC (CNNR), a non-carrier, has filed a verified notice of exemption under 49 CFR part 1150, subpart D, to acquire and operate approximately 5.2 miles of rail line owned by RMW Ventures, LLC (RMW), extending from milepost 0.0 at Connersville, Ind., to milepost 5.2 at Beesons, Ind. (the Line). The verified notice states that the Line is currently operated by Big Four Terminal Railroad, LLC (BFT), a corporate affiliate of RMW.[1]

According to the verified notice, CNNR and RMW recently have entered into an asset purchase and sales agreement pursuant to which CNNR: (1) will acquire the Line; and (2) upon consummation of the transaction, replace BFT as the exclusive common carrier service provider on the Line.

CNNR certifies that the transaction would not contractually limit CNNR from interchanging traffic with any connecting carrier. CNNR also certifies that its projected annual revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier and will not exceed $5 million.

Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. According to the verified notice, the Line is currently inactive and has for over two years lacked any active customers, and therefore, there are no shippers to be notified of the proposed transaction.

Unless stayed, the exemption will be effective on July 26, 2024 (30 days after the verified notice was filed). CNNR states that it intends to consummate the proposed transaction following that date.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than July 19, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36793, 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. In addition, one copy of each pleading must be served on CNNR's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208.

According to CNNR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: July 8, 2024.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2024–15280 Filed 7–11–24; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability, Notice of Public Comment Period, and Request for Comment on the Draft Environmental Assessment for Sierra Space Dream Chaser Reentry Operations at the Shuttle Landing Facility, Brevard County, Florida and Contingency Reentry Site at Vandenberg Space Force Base, Santa Barbara County, California

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

ACTION: Notice of availability, notice of public comment period, and request for comment.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), Council on Environmental Quality NEPA-implementing regulations, and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of and requesting comment on the draft Environmental Assessment for Sierra Space Dream Chaser Reentry Operations at the Shuttle Landing Facility, Brevard County, Florida and Contingency Reentry Site at Vandenberg Space Force Base, Santa Barbara County, California (draft EA).

DATES: Comments must be received on or before August 9, 2024.

ADDRESSES: Comments should be mailed to Ms. Chelsea Clarkson, Sierra Space at SLF and VSFB, c/o ICF, 1902 Reston Metro Plaza, Reston, VA 20190. Comments may also be submitted by email to *SierraSpaceSLF@icf.com.*

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Clarkson, Environmental Protection Specialist, Federal Aviation Administration, 800 Independence

[3] CIND will also continue to have the ability to interchange with NSR that was available under the original trackage rights agreement.

[1] CNNR states that RMW and BFT are affiliated entities under common control of Spencer N. Wendelin. *See RMW Ventures, LLC—Corp. Family Transaction—Big Four Terminal R.R.,* FD 35798 (STB served Mar. 21, 2014).

Avenue SW, Suite 325, Washington, DC 20591; email *SierraSpaceSLF@icf.com*.

SUPPLEMENTARY INFORMATION: The FAA is the lead agency. U.S. Coast Guard, National Aeronautics and Space Administration, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and National Park Service are cooperating agencies for the draft EA due to their special expertise and jurisdictions. The FAA is evaluating Sierra Space Corporation's (Sierra Space's) proposal to conduct Dream Chaser reentry operations at the Shuttle Landing Facility (SLF) in Brevard County, Florida or the Vandenberg Space Force Base (VSFB) in Santa Barbara County, California, which would require the FAA to issue a license. Issuing a license is considered a federal action subject to environmental review under NEPA. Under the Proposed Action, the FAA would issue a license to Sierra Space, which would authorize Sierra Space to conduct reentry operations of its Dream Chaser vehicle at the SLF or VSFB.

Alternatives under consideration include the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue a license to Sierra Space for reentry operations at the SLF or VSFB. If Sierra Space does not obtain a license for reentry operations at the SLF or VSFB, they would be unable to conduct reentry operations of their Dream Chaser vehicle.

The draft EA evaluates the potential environmental consequences from the Proposed Action and No Action Alternative on air quality; biological resources; climate; coastal resources; Department of Transportation Act section 4(f); farmlands; hazardous materials, solid waste, and pollution prevention; historical, architectural, archeological, and cultural resources; land use; natural resources and energy supply; noise and noise-compatible land use; socioeconomics, environmental justice, and children's environmental health and safety risks; visual effects (including light emissions); and water resources.

The FAA has posted the draft EA on the FAA Office of Commercial Space Transportation website: *https://www.faa.gov/space/stakeholder_engagement/Sierra_at_SLF_VSFB*.

The FAA encourages all interested parties to provide comments concerning the scope and content of the draft EA. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask the FAA in your comment to withhold from public review your personal identifying information, the FAA cannot guarantee that we will be able to do so.

Issued in Washington, DC on: July 8, 2024.

Stacey M. Zee,

Manager, Operations Support Branch.

[FR Doc. 2024–15292 Filed 7–11–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2024–0041]

Notice To Renew the Transforming Transportation Advisory Committee (TTAC)

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of the charter renewal of the Transforming Transportation Advisory Committee (TTAC), and TTAC Membership Balance Plan.

SUMMARY: The Office of the Secretary of Transportation (OST) announces the charter renewal of TTAC. The Secretary has determined that renewing TTAC charter is necessary and is in the public interest.

DATES: The TTAC Charter will be effective for two years after date of publication of this **Federal Register** Notice.

FOR FURTHER INFORMATION CONTACT: TTAC Designated Federal Officer, c/o Benjamin Ross Levine, Director of Strategic Initiatives, Office of the Assistant Secretary for Research and Technology, Office of the Secretary of Transportation, (202) 941–6180, *ttac@dot.gov.*

SUPPLEMENTARY INFORMATION: This notice announces the renewal of the DOT TTAC as a Federal Advisory Committee in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. ch. 10) to provide information, advice, and recommendations to the Secretary on matters relating to transportation innovation. TTAC is tasked with providing advice and recommendations to the Secretary about needs, objectives, plans, and approaches for transportation innovation. Please see the TTAC website for additional information at *https://www.transportation.gov/ttac.*

Issued in Washington, DC on July 8, 2024, under authority delegated at 49 CFR 1.25a.

Benjamin Ross Levine,

Director of Strategic Initiatives.

Current Charter of the Transforming Transportation Advisory Committee

1. *Committee's Official Designation:* The Committee's official designation is the Transforming Transportation Advisory Committee (TTAC).

2. *Authority:* The Committee is established as a discretionary Committee under the authority of the U.S. Department of Transportation (DOT) and in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The formation and use of TTAC are determined to be in the public interest.

3. *Objectives and Scope of Activities:* The Secretary of Transportation (the Secretary), or his or her designee, shall present TTAC with tasks on matters relating to transportation innovation. The Committee will provide advice and recommendations to the Secretary about needs, objectives, plans, and approaches for multimodal transportation innovation.

4. *Description of Duties:* The Committee is advisory only. Duties include the following:

a. Gathering information as necessary to discuss issues presented by the Designated Federal Officer (DFO);

b. Deliberating on the following issues, as assigned:

i. Exploring pathways to safe, secure, equitable, environmentally friendly and accessible deployments of emerging technologies;

ii. Identifying integrated approaches and finding ways to promote greater cross-modal integration of emerging technologies, in particular applications to deploy automation;:

iii. Recommending policies that encourage innovation to grow and support a safe and productive U.S. workforce, as well as foster economic competitiveness and job quality;

iv. Assessing approaches and frameworks that encourage the secure exchange and sharing of transformative transportation data, including technologies and infrastructure, across the public and private sectors that can guide core policy decisions across DOT's strategic goals;

v. Exploring ways the Department can identify and elevate cybersecurity solutions and protect privacy across transportation systems and infrastructure;

vi. Considering other emerging issues, topics, and technologies, at the direction of the DFO.

c. Providing written advice and recommendations to the Secretary.

5. *Agency/Official to Whom the Committee Reports:* The Committee shall report to the Secretary through the Under Secretary for Transportation Policy.

6. *Support:* The Office of the Assistant Secretary for Transportation Policy (OST–P) will provide necessary support for the Committee.

7. *Estimated Annual Operating Costs and Staff Years:* The annual operating (administrative) costs associated with the Committee's functions are estimated to be $200,000. The cost estimate includes support from 2 full-time equivalent positions that are required to support the Committee. Costs incurred by Committee members for travel and logistics will not be paid by the Department.

8. *Designated Federal Officer (DFO) and Sponsor*

a. The DFO for the Committee is OST's Senior Advisor for Innovation or his or her designee.

b. The DFO will approve or call all Committee and subcommittee meetings, prepare and approve all meeting agendas, attend all Committee and subcommittee meetings, adjourn any meetings when he or she determines adjournment to be in the public interest, and chair meetings when directed to do so by the Secretary.

9. *Estimated Number and Frequency of Meetings:* Committee meetings will be held approximately twice a year. As necessary, the DFO may call subcommittee meetings.

10. *Duration:* Continuing until renewed/terminated.

11. *Termination:* The Committee will terminate 2 years from the charter filing date unless the charter is renewed in accordance with the FACA.

12. *Membership and Designation*

a. Members will serve without charge, and without any government compensation.

b. The Committee shall comprise no more than 30 members appointed by the Secretary for up to 2-year terms.

c. Members serve at the discretion of the Secretary. The Secretary may extend appointments and may appoint replacements for members outside a stated term, as necessary.

d. The Secretary may reappoint members.

e. The members shall include safety advocates, experts from academia/universities, representatives of organized labor, technical experts (*e.g.,* automation, data, privacy, cybersecurity), and industry representatives. Individuals appointed solely for their expertise will be appointed as special government employees (SGEs). No single interest group may constitute a majority of the Committee.

f. To ensure that the recommendations of the Committee have considered the needs of diverse groups served by the Department, membership shall include, to the extent practicable, persons with lived experience and knowledge of the needs of underrepresented groups.

g. Members may continue to serve until their replacements have been appointed.

h. The Secretary shall designate a chair and vice chair from among members of the Committee. They will serve 2-year nonrenewable terms. The vice chair will succeed the chair at the end of the term.

13. *Subcommittees:* The Secretary, Under Secretary for Transportation Policy, or DFO shall be authorized to establish subcommittees. Subcommittees shall not work independently of the chartered TTAC and shall report their recommendations and advice to the full TTAC for deliberation and discussion. Subcommittees must not provide advice or work products directly to DOT. Subcommittee membership is not limited to those who were selected as members of the Committee. Further, any costs associated with subcommittee travel or meetings will not be paid by the Department.

14. *Recordkeeping:* The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee, shall be handled in accordance with General Records Schedule 6.2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

15. *Filing Date:* This charter is effective July 19, 2022. The charter will expire 2 years after this date unless sooner terminated or renewed.

Redline Comparison of Changes Made to the Charter of the Transforming Transportation Advisory Committee

1. *Committee's Official Designation:* The Committee's official designation is the Transforming Transportation Advisory Committee (TTAC).

2. *Authority:* The Committee is a discretionary Committee under the authority of the U.S. Department of Transportation (DOT) and in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. Ch.10. The formation and use of TTAC are determined to be in the public interest.

3. *Objectives and Scope of Activities:* The Secretary of Transportation (the Secretary), or his or her designee, will present TTAC with tasks on matters relating to transportation innovation. The Committee will provide advice and recommendations to the Secretary about needs, objectives, plans, and approaches for multimodal transportation innovation.

4. *Description of Duties:* The Committee is advisory only. Duties include the following:

a. Gathering information as necessary to discuss issues presented by the Designated Federal Officer (DFO).

b. Deliberating on the following issues, as assigned:

(1) Exploring pathways to safe, secure, equitable, environmentally friendly and accessible deployments of emerging technologies;

(2) Identifying practices for responsibly addressing the introduction of emerging technologies into transportation, including automation and artificial intelligence. In the context of emerging technologies, TTAC may consider issues such as: approaches and policies to promote safety and equity in the deployment of emerging technologies; the secure exchange and sharing of data across the public and private sectors; and ways the Department can identify cybersecurity risks and elevate mitigation strategies;

(3) Recommending policies that encourage innovation to grow and support a safe and productive U.S. workforce, as well as foster economic competitiveness and job quality;

(4) Identifying how DOT and its partners can leverage emerging technologies to help improve the delivery of safe, equitable, efficient, and affordable transportation projects;

(5) Considering other emerging issues, topics, and technologies, at the direction of the DFO.

(6) Providing written advice and recommendations to the Secretary.

5. *Agency/Official to Whom The Committee Reports:* The Committee will report to the Secretary through the Under Secretary for Transportation Policy.

6. *Support:* The Office of the Assistant Secretary for Transportation Policy (OST–P) will provide necessary support for the Committee.

7. *Estimated Annual Operating Costs and Staff Years:* The annual operating (administrative) costs associated with the Committee's functions are estimated to be $250,000. The cost estimate includes support from 2 full-time equivalent positions that are required to

support the Committee. Costs incurred by Committee members appointed as Special Government Employees (SGEs) for travel and logistics may be paid by the Department, subject to funding availability.

8. *Designated Federal Officer (DFO) and Sponsor*

a. The DFO for the Committee is the Senior Advisor for Innovation reporting to the Under Secretary of Transportation for Policy; or, if that position is vacant, a full-time or permanent part-time Federal official designated by the Under Secretary of Transportation for Policy.

b. The DFO will approve or call all Committee meetings, prepare and approve all Committee meeting agendas, attend all Committee meetings, adjourn any meetings when he or she determines adjournment to be in the public interest, and chair meetings when directed to do so by the Secretary. The DFO or his/her delegate will attend all subcommittee meetings.

9. *Number and Frequency of Meetings:* Committee meetings will be held approximately twice a year. As necessary, the DFO may call subcommittee meetings.

10. *Duration:* Continuing until renewed/terminated.

11. *Termination:* The Committee will terminate 2 years from the charter filing date unless the charter is renewed in accordance with the FACA.

12. *Membership and Designation*

a. Members will serve without charge, and without any government compensation.

b. The Committee will comprise no more than 35 members appointed by the Secretary for up to 2-year terms.

c. Members serve at the discretion of the Secretary. The Secretary may reappoint current members and appoint replacements for members outside a stated term, as necessary.

d. The members will include safety advocates, experts from academia/universities, representatives of organized labor, technical experts (*e.g.,* automation, data, privacy, cybersecurity, artificial intelligence), and industry representatives. Individuals appointed solely for their expertise will be appointed as SGEs. No single interest group may constitute a majority of the Committee.

e. To ensure that the recommendations of the Committee have considered the needs of diverse groups served by the Department, membership will include, to the extent practicable, persons with lived experience and knowledge of the needs of underrepresented groups.

f. Members may continue to serve until their replacements have been appointed.

g. The Secretary will designate a chair and vice chair from among members of the Committee. They will serve 2-year nonrenewable terms. Upon the end of their terms, the Secretary may appoint a new chair and vice chair. If the Secretary does not appoint a new chair, the vice chair may succeed the chair at the end of the term.

13. *Subcommittees:* The Secretary, Under Secretary for Transportation Policy, or DFO will be authorized to establish subcommittees. Subcommittees will not work independently of the chartered TTAC and will report their recommendations and advice to the full TTAC for deliberation and discussion. Subcommittees must not provide advice or work products directly to DOT. Subcommittee membership is not limited to those who were selected as members of the Committee. Further, any costs associated with subcommittee travel or meetings will not be paid by the Department.

14. *Recordkeeping:* The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee, will be handled in accordance with General Records Schedule 6.2 or other approved agency records disposition schedule. These records will be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. 552.

15. *Filing Date:* This charter is effective July 7, 2024. The charter will expire 2 years after this date unless sooner terminated or renewed.

[FR Doc. 2024–15291 Filed 7–11–24; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2024–0011]

Mutual Savings Association Advisory Committee

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice.

SUMMARY: The OCC has determined that the renewal of the charter of the OCC Mutual Savings Association Advisory Committee (MSAAC) is necessary and in the public interest. The OCC hereby gives notice of the renewal of the charter.

DATES: The charter of the OCC MSAAC has been renewed for a two-year period that began on June 20, 2024.

FOR FURTHER INFORMATION CONTACT: Michael R. Brickman, Deputy Comptroller for Specialty Supervision and Designated Federal Officer, 202–649–5420, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Notice of the renewal of the MSAAC charter is hereby given, with the approval of the Secretary of the Treasury, pursuant to section 1008(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.* The Comptroller of the Currency has determined that the renewal of the MSAAC charter is necessary and in the public interest in order to provide advice and information concerning the condition of mutual savings associations, the regulatory changes or other steps the OCC may be able to take to ensure the health and viability of mutual savings associations, and other issues of concern to mutual savings associations, all in accordance with the goals of section 5(a) of the Home Owners' Loan Act, 12 U.S.C. 1464.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2024–15321 Filed 7–11–24; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2024–0010]

Minority Depository Institutions Advisory Committee

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice.

SUMMARY: The OCC has determined that the renewal of the charter of the OCC Minority Depository Institutions Advisory Committee (MDIAC) is necessary and in the public interest. The OCC hereby gives notice of the renewal of the charter.

DATES: The charter of the OCC MDIAC has been renewed for a two-year period that began on June 20, 2024.

FOR FURTHER INFORMATION CONTACT: André King Assistant Deputy Comptroller and Designated Federal Officer, (202) 731–7476, Office of the Comptroller of the Currency, 2001 Butterfield Road, Suite 400, Downers Grove, IL 60615.

SUPPLEMENTARY INFORMATION: Notice of the renewal of the MDIAC charter is

hereby given, with the approval of the Secretary of the Treasury, pursuant to section 1008(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.* The Comptroller of the Currency has determined that the renewal of the MDIAC charter is necessary and in the public interest to provide advice and information about the current circumstances and future development of minority depository institutions, in accordance with the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, title III, 103 Stat. 353, 12 U.S.C. 1463 note, which include to: preserve the present number of minority depository institutions, preserve the minority character of minority depository institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority depository institutions.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2024–15320 Filed 7–11–24; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID: OCC–2024–0009]

Mutual Savings Association Advisory Committee and Minority Depository Institutions Advisory Committee; Request for Nominations

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Request for nominations.

SUMMARY: The OCC is seeking nominations for members of the Mutual Savings Association Advisory Committee (MSAAC) and the Minority Depository Institutions Advisory Committee (MDIAC). The MSAAC and the MDIAC assist the OCC in assessing the needs and challenges facing mutual savings associations and minority depository institutions, respectively. The OCC is seeking nominations of individuals who are officers and/or directors of federal mutual savings associations, or officers and/or directors of federal stock savings associations that are part of a mutual holding company structure, to be considered for selection as MSAAC members. The OCC also is seeking nominations of individuals who are officers and/or directors of OCC-regulated minority depository institutions, or officers and/or directors of other OCC-regulated depository institutions with a commitment to supporting minority depository institutions, to be considered for selection as MDIAC members.

DATES: Nominations must be received on or before August 26, 2024.

ADDRESSES: Nominations of MSAAC members should be sent to *msaac.nominations@occ.treas.gov* or mailed to: Michael R. Brickman, Deputy Comptroller for Specialty Supervision, 400 7th Street SW, Washington, DC 20219. Nominations of MDIAC members should be sent to *mdiac.nominations@occ.treas.gov* or mailed to: André King, Assistant Deputy Comptroller, 2001 Butterfield Road, Suite 400, Downers Grove, IL 60515.

FOR FURTHER INFORMATION CONTACT:

For inquires regarding the MSAAC, Michael R. Brickman, Deputy Comptroller for Thrift Supervision: *msaac.nominations@occ.treas.gov* or (202) 649–5420.

For inquires regarding the MDIAC, André King, Assistant Deputy Comptroller: *mdiac.nominations@occ.treas.gov* or (202) 731–7476.

SUPPLEMENTARY INFORMATION: The MSAAC and the MDIAC are administered in accordance with the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.* The MSAAC advises the OCC on meeting the goals established by section 5(a) of the Home Owners' Loan Act, 12 U.S.C. 1464. The MSAAC advises the OCC regarding mutual savings associations on means to: (1) provide for the organization, incorporation, examination, operation and regulation of associations to be known as federal savings associations (including federal savings banks); and (2) issue charters therefore, giving primary consideration of the best practices of thrift institutions in the United States. The MSAAC helps meet those goals by providing the OCC with informed advice and recommendations regarding the current and future circumstances and needs of mutual savings associations. The MDIAC advises the OCC on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101–73, title III, 103 Stat. 353, 12 U.S.C. 1463 note. Among the goals of section 308 are to: preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions. The MDIAC helps the OCC meet those goals by providing informed advice and recommendations regarding a range of issues involving minority depository institutions. Nominations should describe and document the proposed member's qualifications for MSAAC or MDIAC membership, as appropriate. Existing MSAAC or MDIAC members may reapply themselves or may be renominated. The OCC will use this nomination process to achieve a balanced advisory committee membership and ensure that diverse views are represented among the membership of officers and directors of mutual and minority institutions. The MSAAC and MDIAC members will not be compensated for their time but will be eligible for reimbursement of travel expenses in accordance with applicable federal law and regulations.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2024–15319 Filed 7–11–24; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of 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 effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Bradley T. Smith, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

A. On May 1, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. BUTRYM, Natallia (a.k.a. BUTRIM, Natalya), Russia; DOB 14 Dec 1994; nationality Belarus; Gender Female; Passport KH2926007 (Belarus) expires 12 Sep 2029 (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of Executive Order 14024 of April 15, 2021, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation,'' 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (E.O. 14024), as amended by Executive Order 14114 of December 22, 2023, ''Taking Additional Steps With Respect to the Russian Federation's Harmful Activities,'' 88 FR 89271, 3 CFR, 2023 Comp., p. 271 (E.O. 14114), for operating or having operated in the transportation sector of the Russian Federation economy.

2. KORZHAVIN, Yurii Anatolyevich, Russia; DOB 28 Sep 1957; POB Moscow, Russia; nationality Russia; Gender Male; Tax ID No. 770702814195 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

3. KORZHAVINA, Lidiya Germanovna, Russia; DOB 22 May 1958; POB Moscow, Russia; nationality Russia; Gender Female; Tax ID No. 771405312885 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

4. LITVYAKOVA, Anzhelika Anatolyevna, Russia; DOB 11 Feb 1970; nationality Russia; Gender Female; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 241102625389 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

5. PETROV, Evgenii Stanislavich, Russia; DOB 23 Sep 1988; nationality Russia; Gender Male; Passport 732736865 (Russia); Tax ID No. 212405812013 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

6. LABIN, Viktor Gennadevich (a.k.a. LABIN, Victor Guennadievitch), Avenue Winston Churchill 59 B.11, Brussels 1180, Belgium; Avenue Dolez 243, Uccle 1180, Belgium; DOB 11 Mar 1961; nationality Russia; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; National ID No. 4508527239 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

7. LABIN, Roman Viktorovich (a.k.a. LABIN, Romain), Moscow, Russia; Avenue Dolez 243, Uccle 1180, Belgium; DOB 17 Jul 1984; nationality Russia; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114. (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

8. LABIN, Ruslan Viktorovich, Avenue Dolez 243, Uccle 1180, Belgium; Russia; DOB 28 Dec 1988; nationality Russia; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 773576249965 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

9. ALIYEV, Jahangir Yevgenyevich (a.k.a. ALIYEV, Cahangir Yevqenyevic), Azerbaijan; DOB 22 May 1983; POB Ukraine; nationality Azerbaijan; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Passport C01573439 (Azerbaijan) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

10. ALIYEV, Yevgeni, Moscow, Russia; DOB 02 May 1959; nationality Russia; alt. nationality Azerbaijan; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114. (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

11. PANKRASHKIN, Aleksei Vladimirovich, Russia; DOB 08 Aug 1974; POB Shkotovo-17, Russia; nationality Russia; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 780617129283 (Russia) (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

12. MAKAROV, Sergei Vyacheslavovich (a.k.a. MAKAROV, Sergei), Austria; DOB 05 Dec 1978; POB Vladivostok, Russia; nationality Russia; citizen Russia; Email Address *makarov_away@mail.ru;* Gender Male; Passport 750663876 (Russia); Tax ID No. 253804091667 (Russia) (individual) [RUSSIA–EO14024] (Linked To: IPM LIMITED).

Designated pursuant to section 1(a)(iii)(C): Leader, official, senior executive officer, or member of the board of directors of an SDN. IPM LIMITED.

13. MOZHAYEV, Yegor Igoryevich (a.k.a. ''MOZHAEV, Egor Igorevich''; a.k.a. ''MOZHAYEV, Yegor''), Moscow, Russia; DOB 31 May 1982; nationality Russia; Gender Male (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vi)(B): Materially assisted an SDN. RADIOAVTOMATIKA LLC.

14. SELIVERSTOV, Ivan Vladimirovich, Moscow, Russia; DOB 10 Mar 1989; POB Magdeburg, Germany; nationality Russia; Gender Male (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vi)(B): Materially assisted an SDN. RADIOAVTOMATIKA LLC.

15. BULYGIN, Yaroslav Viktorovich (Cyrillic: БУЛЫГИН, ЯРОСЛАВ ВИКТОРОВИЧ) (a.k.a. BULYGIN, Iaroslav; a.k.a. BULYGIN, Jaroslav Viktorovich), Russia; DOB 02 Aug 1973; nationality Russia; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Passport 750041312 (Russia) expires 31 May 2024; Tax ID No. 502907154264 (Russia) (individual) [NPWMD] [RUSSIA-EO14024] (Linked To: INTELLER LLC).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

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,'' 70 FR 38567, 3 CFR, 2005 Comp., p. 170 (''E.O. 13382''), for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, INTELLER LLC, a person whose property and interests in property are blocked pursuant to E.O. 13382.

16. GAVRYUCHENKOV, Andrei Viktorovich (Cyrillic: ГАВРЮЧЕНКОВ, АНДРЕЙ ВИКТОРОВИЧ) (a.k.a. GAVRJUCHENKOV, Andrej Viktorovich; a.k.a. GAVRYUCHENKOV, Andrey Viktorovich), Russia; DOB 23 Oct 1960; POB Tulun, Russia; nationality Russia; Gender Male; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; National ID No. 46357814 (Russia); Tax ID No. 500111196730 (Russia) (individual) [NPWMD] [RUSSIA-EO14024] (Linked To: AKTSIONERNOE OBSHCHESTVO RAU FARM).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of AKTSIONERNOE OBSHCHESTVO RAU FARM, a person whose property and interests in property are blocked pursuant to E.O. 13382.

Entities

1. WUHAN TONGSHENG TECHNOLOGY CO., LTD., F038, Floor 5–8, 13, 15, Block B, No. 2 Factory Building, Guangyuan Science Park, No. 6 Huashiyuan North Road, Wuhan, Hubei 430000, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 29 Jun 2021; Unified Social Credit Code (USCC) 91420100MA4F0QE59C (China) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

2. AKTSIONERNOE OBSHCHESTVO TSENTRALNOE KONSTRUKTORSKOE BYURO APPARATOSTROENIYA (a.k.a. CENTRAL DESIGN BUREAU OF APPARATUS ENGINEERING; a.k.a. ''AO TSKBA''; a.k.a. ''APPARATUS DEVELOPMENT JOINT STOCK COMPANY''; a.k.a. ''JSC CDBAE''), 36, ul Demonstratsii, Tula 300034, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7106002868 (Russia); Registration Number 1027100740941 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

3. COMPLEX UNMANNED SOLUTIONS CENTER LTD (a.k.a. ''U.S.C. LTD''), Spasateley St., 7, Zhukovsky 140184, Russia; Ul. Luch, D. 24/1a, floor 2, Pomeshch. 112, Zhukovsky 140184, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5040176793 (Russia); Registration Number 1225000003458 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

4. INFORMATION TELECOMMUNICATION TECHNOLOGIES JOINT STOCK COMPANY (a.k.a. ''INTELTECH JSC''; a.k.a. ''INTELTEKH''), Ul. Kantemirovskaya D. 8, Saint Petersburg 197342, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7802030605 (Russia); Registration Number 1027801525608 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

5. INSTITUTE OF APPLIED PHYSICS JSC (a.k.a. AO IPF; a.k.a. ''INSTITUTE OF APPLIED PHYSICS IAP''), Ul. Arbuzova D. 1/1, Novosibirsk 630117, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5408106299 (Russia); Registration Number 1025403638831 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

6. JOINT STOCK COMPANY CLASS (a.k.a. ''NPP KLASS''), Sh. Entuziastov, D 56, Str. 21, Moscow 111123, Russia; Ul. Sovetskaya D. 3, Floor 2, Kom. 2, Lukhovitsy 140501, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No.

7724032017 (Russia); Registration Number 1027700450975 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

7. JOINT STOCK COMPANY DUKS (a.k.a. JOINT STOCK COMPANY DUX), 8 Pravdy Street, Moscow 125124, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7714077682 (Russia); Registration Number 1027700010579 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

8. JOINT STOCK COMPANY SCIENTIFIC–RESEARCH INSTITUTE OF MECHANIZATION OF KRASNOARMEYSK (a.k.a. ''AO KNIIM''), Pr-Kt Ispytatelei D. 8, Krasnoarmeysk 141292, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5038087144 (Russia); Registration Number 1115038007534 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

9. JSC INNOVATION WEAPONS TECHNOLOGIES (a.k.a. AO INNOVATSIONNYE ORUZHEINYE TEKHNOLOGII), PR–D 2–I Yuzhnoportovyi D. 16, Str. 8, Kom. 108, 109, Moscow 115088, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7723633336 (Russia); Registration Number 1077761841860 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

10. LIMITED LIABILITY COMPANY POINTER, Ul. Kurlyandskaya D. 28, Lit. V, Pomeshch. 54–N, Kom. 106, Saint Petersburg 190020, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7841082477 (Russia); Registration Number 1197847073115 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

11. LIMITED LIABILITY COMPANY SCIENTIFIC AND PRODUCTION ASSOCIATION NAUKASOFT (a.k.a. NAUCHNO PROIZVODSTVENNOE OBYEDINENIE NAUKASOFT), Ul. Godovikova d. 9, Str. 4, Floor 1, Pomeshch./Kom 1.1/1.1.4, Moscow 129085, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Registration Number 1127746234230 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

12. LIMITED LIABILITY COMPANY UNITED LIFESAVING TECHNOLOGIES (a.k.a. UNITED RESCUE TECHNOLOGIES), Per Poryadkovyi D. 21, Moscow 127055, Russia; Ul. Eniseiskaya D. 7, K. 3, Floor 2, Komnata 4, Moscow 129344, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7707768262 (Russia); Registration Number 1127746038584 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

13. LIPETSKII MEKHANICHESKII ZAVOD (a.k.a. ''OOO LMZ''), ul. Krasnozavodskaya, d. 1, office 201, Lipetsk 398006, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 4824096058 (Russia); Registration Number 1184827011302 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

14. OKO DESIGN BUREAU (Cyrillic: ОКО КОНСТРУКТОРСКОЕ БЮРО), Saint Petersburg, Russia; Website https://www.oko-kb.ru; Digital Currency Address - XBT 13fhnkmpBBWXUQucJd6efWvXdEj78DKavk; Digital Currency Address - ETH 0x19F8f2B0915Daa12a3f5C9CF01dF9E24D53794F7; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 2022; Organization Type: Manufacture of air and spacecraft and related machinery; Digital Currency Address - TRX TFdTr9C3BqQrzKBXqSxJfAZFTh8UwBAfSg [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

15. OPEN JOINT STOCK COMPANY KAZAN PLANT ELECTROPRIBOR (a.k.a. KAZAN PLANT ELECTRIC DEVICE OPEN JOINT STOCK COMPANY; a.k.a. OTKRYTOE AKTSIONERNOE OBSHCHESTVO KAZANSKII ZAVOD ELEKTROPRIBOR), Ul. Nikolaya Ershova D. 20, Kazan 420061, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 1655064494 (Russia); Registration Number 1041621021749 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

16. WUHAN GLOBAL SENSOR TECHNOLOGY CO., LTD. (Chinese Simplified: 武汉高芯科技有限公司), Building 2, No. 6, Huanglongshan S. Road, Donghu Development Zone, Wuhan, Hubei, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 28 Apr 2013; Unified Social Credit Code (USCC) 914201000668186736 (China) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

17. A Y A UNIVERSAL DENIZCILIK KUMANYACILIK LIMAN HIZMETLERI ITHALAT IHRACAT LIMITED SIRKETI (a.k.a. AYA UNIVERSAL TRADING DENIZCILIK KUMANYACILIK LIMAN HIZMETLERI ITHALAT IHRACAT LTD STI), G.M.K. Bulvari Capital Ticaret Merkezi B Blok Kat, Mersin 42250, Turkey; Organization Established Date 16 May 2022; Organization Type: Other transportation support activities [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

18. ARTMARINE LLC, ul. Novgorodskaya d. 23, pomeshch. 146-n, office 248, Saint Petersburg 191124, Russia; ul. Ramenki, d. 5, korp. 1, et. 3, pom. V, of. 2, Moscow 119607, Russia; 1st floor of Building Dockworks 4, Waalhaven O.Z. 77, Rotterdam 3087 BM, Netherlands; Tax ID No. 7805634884 (Russia); Registration Number 1137847421689 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

19. FPK TRANSAGENCY JSC (a.k.a. AKTSIONERNOE OBSHCHESTVO FPK TRANSAGENTSTVO), Ul. Fridrikha Engelsa D. 75 Str. 21, Moscow 105082, Russia; Ul. Nizhyaya Krasnoselskaya D. 5, Str. 6, Kom. 14–15, Moscow 107140, Russia; Tax ID No. 7708168606 (Russia); Registration Number 1027700024494 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

20. IMPORTEKS, ul. Svetlanskaya d.133, kvartira 16, Vladivostok 690001, Russia; 1st floor, 53b, Nekrasovskaya St., Vladivostok, Russia; Office 31, 7th floor, 16, Raketny Boulevard St., Moscow, Russia; Tax ID No. 2543036719 (Russia); Registration Number 1132543023612 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

21. LIMITED LIABILITY COMPANY EASTERN TRADING TRANSPORT COMPANY (a.k.a. VOSTOCHNAYA TORGOVO TRANSPORTNAYA KOMPANIYA; a.k.a. ''TRANSPORT COMPANY LLC VTTK''), Ul. Lva Tolstogo D. 12, Pomeshch.VII 9, Khabarovsk 680000, Russia; Tax ID No. 2722046689 (Russia); Registration Number 1152722003037 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

22. LIMITED LIABILITY COMPANY EUROTRANSEXPEDITION (a.k.a. OOO EVROTRANSEKSPEDITSIYA), naberezhnaya Novodanilovskaya, d. 4A, pom. II, kom. 22I–22S, 18, 19, Moscow 117105, Russia; Tax ID No. 7726756897 (Russia); Registration Number 5147746148853 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

23. LIMITED LIABILITY COMPANY REIL TREIN SERVICE (a.k.a. ''RAIL TRAIN SERVICE''; a.k.a. ''RAILTRAINSERVICE''), Ul. Kakhovka D. 10, K. 3, Moscow 117461, Russia; Tax ID No. 7727769031 (Russia); Registration Number 5117746041100 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

24. LLC TURBO KING, Proezd Avtosborochnyi D. 10, Naberezhnyye Chelny 423800, Russia; Tax ID No. 1650384878 (Russia); Registration Number 1191690088853 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

25. OOO ORLAN, ul. Bolshaya Tatarskaya, 35c3, et. 11, Moscow, Russia; Kapi No: 5 Bakirkoy, Zeytinlik mah. Sporcu sk. Zeynep Apt. No: 7 IC, Istanbul, Turkey; Tax ID No. 7701096293 (Russia); Registration Number 1157746275488 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

26. OOO PV BRIDZH, Rubtsovskaya naberezhnaya, d. 3, str. 1, et. 8, kom. 14, Moscow 105082, Russia; Tax ID No. 7733766494 (Russia); Registration Number 1117746345166 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

27. OOO STANDARD LINE (a.k.a. OOO STANDART LAIN), ul. Ilyushina (Aviatsionny Mkr.), str. 2A, pom. 64, Domodedovo, Moscow 142007, Russia; sh. Kashirskoe d.7, Domodedovo 142000, Russia; Tax ID No. 5009082825 (Russia); Registration Number 1125009001655 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

28. ROSTAR RESEARCH AND PRODUCTION ASSOCIATION LIMITED LIABILITY COMPANY (a.k.a. SCIENTIFIC AND PRODUCTION ASSOCIATION ROSTAR LLC), BSI, Ul. Dorozhnaya D. 39, Naberezhnyye Chelny 423800, Russia; Sh. Okruzhnoe D. 11B, Office 2, Yelabuga 423606, Russia; Tax ID No. 7720361170 (Russia); Registration Number 5167746369060 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

29. CSOFT DEVELOPMENT, Ul. Boitsovaya D. 17, K. 3, Pomeshch. 12 Komnatad 3B, Moscow 107150, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722570620 (Russia); Registration Number 1067746335711 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

30. IBS EXPERTISE (a.k.a. OOO IBS EKSPERTIZA), ul. Skladochnaya d. 3, str. 1, Moscow 127018, Russia; sh. Dmitrovskoe, d. 9B, et. 5, pom. XIII, kom. 6, Moscow 127434, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7713606622 (Russia); Registration Number 1067761849704 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

31. IBS SOFT LTD (a.k.a. OOO IBS SOFT), ul. Skladochnaya d. 3, str. 1, Moscow, 127434, Russia; sh. Dmitrovskoe, d. 9B, et. 5, pom. XIII, kom. 14, Moscow 127434, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation

economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7713721689 (Russia); Registration Number 1117746016013 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

32. JOINT STOCK COMPANY IBS IT SERVICES (a.k.a. AO IBS IT USLUGI), ul. Skladochnaya d. 3, str. 1, Moscow 127018, Russia; sh. Dmitrovskoe, d. 9B, et. 5, pom. XIII, kom. 23, Moscow 127434, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7713444361 (Russia); Registration Number 1177746672905 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

33. JSC CONSULTING GROUP POSTPROCESSOR, Ul. Presnenskii Val D. 17, Str. 1, Moscow 123557, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7730617751 (Russia); Registration Number 1097746705759 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

34. LANIT INCORPORATED, Proezd Murmanskii, D 14, Korp. 1, Moscow 129075, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7727004113 (Russia); Registration Number 1027739031572 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

35. LIMITED LIABILITY COMPANY IBS INFINISOFT, 1–I Volokolamskii proezd, d. 10, str. 1, et/pom. 1/I, kom. 58, Moscow 123060, Russia; sh. Dmitrovskoe, d. 9B, Moscow 127434, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7713605227 (Russia); Registration Number 1067761258190 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

36. LIMITED LIABILITY COMPANY SKALA R, Ul. Godovikova D. 9, Str. 17, Floor 7, Pomeshch. 7, Moscow 129085, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 9717098243 (Russia); Registration Number 1217700023782 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

37. NAUCHNO INZHENERNOE PREDPRIYATIE INFORMATIKA (a.k.a. NIP INFORMATICA; a.k.a. NIP INFORMATIKA), Ul. Fuchika D. 4, Lit K, Saint Petersburg 192102, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7810182337 (Russia); Registration Number 1027804862040 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

38. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU FILAKSKOM (a.k.a. ''PHILAX COMMUNICATIONS''; a.k.a. ''PHILAXCOM''), Ul. Okskaya D. 8, K. 2, Et/P/K/Of 1/III/1/28, Moscow 109117, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7724786430 (Russia); Registration Number 1117746288384 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

39. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU SIGNUM, d. 42 str. 1 etazh 0 pom. 1485 R.M 1, bulvar Bolshoi (Innovatsionnogo Tsentra Skolkovo Ter), Moscow 121205, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5050118416 (Russia); Registration Number 1155050003041 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

40. ORION LIMITED LIABILITY COMPANY, Ul. Dovatora D. 4/7, Pomeshch. 1/P, Kom. 3, Moscow 119048, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 9704113582 (Russia); Registration Number 1227700018996 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

41. PUBLIC JOINT STOCK COMPANY ASTRA GROUP, Sh. Varshavskoe D. 26, Floor/Office T/31, Moscow 117105, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7726476459 (Russia); Registration Number 1217700192687 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

42. PURELOGIC (a.k.a. PURELOGIC R&D), PR–KT Leninskii D. 160, Office 134, Voronezh 394033, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7726580330 (Russia); Registration Number 1077762066711 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

43. SECRET TECHNOLOGIES (a.k.a. SIKRET TEKHNOLODZHIS), Ul. Shcherbakovskaya D. 53, K. 3, Et 1 Kom 113, Moscow 105187, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7719463723 (Russia); Registration Number 5167746470140 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

44. ZHONGCHENG HEAVY EQUIPMENT DEFENSE TECHNOLOGY SHANDONG GROUP CO., LTD. (Chinese Simplified: 中成重装防务科技山东集团有限公司) (a.k.a. ZHONG CHENG HEAVY EQUIPMENT DEFENSE TECHNOLOGY CO., LTD (Chinese Simplified: 中成重装防务科技集团); a.k.a. ZHONGCHENG HEAVY EQUIPMENT SHANDONG DEFENCE TECHNOLOGY CO.; a.k.a. ZHONGCHENG HEAVY EQUIPMENT SHANDONG DEFENSE TECHNOLOGY CO.; a.k.a. "TIANCHENG HEAVY EQUIPMENT SHANDONG DEFENSE TECHNOLOGY CO., LTD" (Chinese Simplified: "天诚一重装山东防务科技有限公司")), Room 1212, Building B, Youth Venture Park, No. 185 Xincun West Road, Zhangdian District, Mashang Street Office, Zibo City, Shandong Province, China; Room 1212, Building B, Youth Venture Park, No. 185 Xincun West Road, Zhangdian Street Office, Zibo City, Shandong, China; Organization Established Date 06 Jan 2020; Unified Social Credit Code (USCC) 91370303MA3RC3YM7X (China) [RUSSIA-EO14024] (Linked To: PRIVATE MILITARY COMPANY 'WAGNER').

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, PRIVATE MILITARY COMPANY 'WAGNER', a person whose property and interests in property are blocked pursuant to E.O. 14024.

45. GONUL EXPORT LOJISTIK TICARET VE SANAYI LIMITED SIRKETI, Mahmutlar Mah. Mahmutlar Tepe Sok., No 8 Ic Kapi No: 66, Alanya, Antalya, Turkey; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 03 Aug 2022; Organization Type: Wholesale of other machinery and equipment [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

46. MSO LOJISTIK TIC VE SANAYI LTD STI, Sekerhave Mah. Tevikiye Cad. 25 Ic Kapt 2, Alanya, Antalya, Turkey; Organization Established Date 22 Sep 2023; Registration Number 0623209473900001 (Turkey) [RUSSIA–EO14024] (Linked To: PETROV, Evgenii Stanislavich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly PETROV, Evgenii Stanislavich, a person whose property and interests in property are blocked pursuant to E.O. 14024.

47. AKTSIONERNOE OBSHCHESTVO BOLKHOVSKII ZAVOD POLUPROVODNIKOVYKH PRIBOROV (a.k.a. ''AO BZPP''), Ul. Vasiliya Ermakova D. 17, Bolkhov 303140, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5704003487 (Russia); Registration Number 1025702655890 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

48. AKTSIONERNOE OBSHCHESTVO FRYAZINSKII ZAVOD MOSHCHNYKH TRANZISTOROV (a.k.a. ''AO FZMT''), Pr-D Zavodskoi D. 3, Fryazino 141190, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5050113873 (Russia); Registration Number 5147746235456 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

49. AKTSIONERNOE OBSHCHESTVO PYEZO, Ul. Buzheninova D. 16, Moscow 105023, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7718115603 (Russia); Registration Number 1027739447031 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

50. ALEXANDER ELECTRIC DON (a.k.a. ''AEDON''), Druzhinnikov, 5B,/Druzhinnikov 1, Voronezh 394026, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 3662055600 (Russia); Registration Number 1023601580045 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

51. ALEXANDER ELECTRIC POWER SUPPLIES (a.k.a. ''AEIEP''), Ul. Shchepkina D. 25/20, Kom. 14, Moscow 129090, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7702231308 (Russia); Registration Number 1027700115574 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

52. INTELLEKTUALNYE SISTEMY NN LIMITED LIABILITY COMPANY (a.k.a. INOPTICS), Ul. Libknekhta D. 41, K. 2, Dzerzhinsk 606020, Russia; Ul. Budennogo D. 5 V Of. 103, Dzerzhinsk 606026, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5249106861 (Russia); Registration Number 1105249001593 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

53. JOINT STOCK COMPANY ELECOND (a.k.a. AO ELEKOND), 3 Kalinin Street, Sarapul 427968, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 1827003592 (Russia); Registration Number 1021800993752 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated

in the manufacturing sector of the Russian Federation economy.

54. JOINT STOCK COMPANY SPECIAL DESIGN BUREAU OF THE CABLE INDUSTRY (a.k.a. ''AO OKB KP''), Ul. Yadreevskaya D. 4, Mytishchi 141002, Russia; Ul. Kolpakova D. 77, Mytishchi 141008, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5029150262 (Russia); Registration Number 1115029003231 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

55. LASERCUT LIMITED LIABILITY COMPANY, Pr-kt Obukhovskoi Oborony D. 70, K. 2 Lit. A, Pomeshch 1N, 2N, 3N, 4N, Kom. 105, 224, Saint Petersburg 192029, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7839090657 (Russia); Registration Number 1177847291962 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

56. LASSARD, Sh. Varshavskoe D. 26, Str. 11, Pomeshch. 1TS, Moscow 117105, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 4025442914 (Russia); Registration Number 1154025001030 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

57. LATICOM LTD, 4806–I Proezd Zelenograd, 4 St. Moscow, Russia; Proezd 4922–I D. 4, Str. 3, Pomeshch. 3/1, Zelenograd 124498, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7735528382 (Russia); Registration Number 5077746296800 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

58. LAZERBI (a.k.a. LASERBEE), Pr-kt Kosygina D. 33, K. 1 Lit. A, Pomeshch. 1–N, Office 17, Saint Petersburg 195298, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Registration ID 1197847249236 (Russia); Tax ID No. 7806568352 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

59. LIMITED LIABILITY COMPANY LASERFORM (a.k.a. LAZERFORM), Ul. Avtomotornaya D. 1/3, Str. 2, Floor 6, Pomeshch. I Komnata 11, Moscow 125438, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722748800 (Russia); Registration Number 1117746445849 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

60. LIMITED LIABILITY COMPANY SREDNEVOLZHSKY STANKOZAVOD (a.k.a. ''SVSZ''), Ul. Naberezhnaya Reki Samary 1, Samara 443036, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6311144662 (Russia); Registration Number 1136311005258 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

61. MAGNETON JOINT STOCK COMPANY, Ul. Kurchatova D. 9, Saint Petersburg 194223, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7802053803 (Russia); Registration Number 1027801538610 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

62. MMP IRBIS, Ul. Zolotorozhskii Val D. 11, Str. 26, Floor 3, Pom. B14/1, Moscow 111033, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722469891 (Russia); Registration Number 1187746990474 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

63. OTKRYTOE AKTSIONERNOE OBSHCHESTVO VSEROSSIISKII NAUCHNO ISSLEDOVATELSKII PROEKTNO KONSTRUKTORSKII I TEKHNOLOGICHESKII INSTITUT KABELNOI PROMYSHLENNOSTI (a.k.a. ''OAO VNIIKP''), Sh. Entuziastov D. 5, Moscow 111024, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722002521 (Russia); Registration Number 1027700273985 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

64. PUBLIC JOINT STOCK COMPANY AVTODIZEL YAROSLAVL MOTOR PLANT (a.k.a. ''YAMZ''), Prospekt Oktyabrya ZD. 75, Yaroslavl 150040, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7601000640 (Russia); Registration Number 1027600510761 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

65. THE GROUP OF COMPANIES ELECTRONINVEST JOINT STOCK COMPANY (a.k.a. AO GK ELEKTRONINVEST), Ul. Nizhnaya D. 14, Str. 2, Moscow 125040, Russia; 19A, Ul. Alabushevskaya Zelenograd Moscow, Moscow 124460, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7710346180 (Russia); Registration Number 1027739381812 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

66. CARBONIM ENGINEERING LIMITED LIABILITY COMPANY, Ul. Barklaya D. 6, Str. 5, Pomeshch. 8/2, Moscow 121087, Russia; Ul. Silikatnaya 2s2, Lobnya 141730, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 9703136770 (Russia); Registration Number 1237700162842 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

67. DIAGNOSTIKA M LLC (a.k.a. ''TSNK''), Pr-kt Volgogradskii D. 42, Et. 13,

Kom. 12, Moscow 109316, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7720081285 (Russia); Registration Number 1037739045552 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

68. FEDERAL RESEARCH AND PRODUCTION CENTER JOINT STOCK COMPANY RESEARCH AND PRODUCTION ASSOCIATION MARS (a.k.a. FNPTS AO NPO MARS), Ul. Solnechnaya D. 20, Ulyanovsk 432022, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7303026811 (Russia); Registration Number 1067328003027 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

69. JOINT STOCK COMPANY JUPITER PLANT (a.k.a. JSC ZAVOD YUPITER; a.k.a. ZAO ZAVOD YUPITER), Ul. Pobedy D. 107, Korp. 1, Valday 175400, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7838027959 (Russia); Registration Number 1057806863883 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

70. JOINT STOCK COMPANY MANEL (a.k.a. AO MANEL), Ul. Vladimira Vysotskogo D. 25, Str. 12, Tomsk 634040, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7017259678 (Russia); Registration Number 1107017006854 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

71. JOINT STOCK COMPANY VLADIMIR PLANT OF METAL HOSES (a.k.a. ''AO VZM''), Kubysheva st., 26E, Vladimir 600035, Russia; Ul. Letnikovskaya D. 10, Str. 1, Pomeshch. IV, Kom. 11, Moscow 115114, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 3328441019 (Russia); Registration Number 1063328003584 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

72. JSC BIOGRAD (a.k.a. BIOGRAD LLC; a.k.a. BIOGRADE LTD; a.k.a. ZAO BIOGRAD), Ul. Mira 14, Kv 630, Saint Petersburg 197101, Russia; Pr-kt Petrovskii D. 14, Lit. A, Pom. 19N, Saint Petersburg 197110, Russia; Torzhkovskaya st. 5, BC Optima, Saint Petersburg 197342, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7813030678 (Russia); Registration Number 1027806867670 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

73. JSC VLADIMIR PLANT OF PRECISION ALLOYS (a.k.a. AKTSIONERNOE OBSHCHESTVO VLADIMIRSKII ZAVOD PRETSIZIONNYKH SPLAVOV; a.k.a. AO VZPS), Ul Kuibysheva 26, Vladimir 600035, Russia; Per. Ozerkovskii D. 12, Pomeshch. I, Kom. 21, Moscow 115184, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 3328459312 (Russia); Registration Number 1083328004044 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

74. LIMITED LIABILITY COMPANY CONFERUM (a.k.a. KONFERUM), Ul. Betonnaya D. 13A, Pomeshch. I/Floor 2, Staraya Kupavna 142450, Russia; Shchelkovskoe shosse, 54B, Balashikha, Moscow 143900, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5001077887 (Russia); Registration Number 1105001002370 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

75. LIMITED LIABILITY COMPANY K.ARMA (a.k.a. LIMITED LIABILITY COMPANY K ARMA), Ul. Mechnikova D. 40, Kv. 27, Kolomna 140412, Russia; Oktiabrskoy Revolutsii st., 354A, Kolomna 140408, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5022071237 (Russia); Registration Number 1225000028879 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

76. LIMITED LIABILITY COMPANY UNIQUE LAB (a.k.a. YUNIK LEB), Ul. Bumazhnaya D. 17, Lit. A, Pomeshch. 268B, Saint Petersburg 190020, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7839071647 (Russia); Registration Number 1167847364233 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

77. LIMITED LIABILITY COMPANY VIRSEMI, Ul. Lenina D. 328, K. 7, Kv. 14, Tolyatti 355003, Russia; Lenina st., 431, Stavropol 355029, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 2635240873 (Russia); Registration Number 1192651008648 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

78. LIMITED LIABILITY COMPANY WORLD OF FASTENERS TD (a.k.a. MIR KREPEZHA TD), Sh. Golovinskoe D. 3, Pomeshch. 4N, Moscow 125212, Russia; Golovinskoe shosse, 5A, Moscow 125212, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7743157075 (Russia); Registration Number 1167746505552 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

79. LLC INNO BETON 21, Sh. Volokolamskoe ZD. 119, Pomeshch. 24, Rumyantsevo 143560, Russia; 26 km Novorizhskoe shosse, Business Center Riga Land, Building 6, Krasnogorsk 143421, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5017124589 (Russia); Registration Number 1205000104297 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated

in the manufacturing sector of the Russian Federation economy.

80. LLC MOSPRESS (a.k.a. MOSPRESS METAL SPINNING AND FLOW FORMING FACTORY), Ul. Akademika Koroleva D. 13, Str. 1, Et 4 Pom. III Kom 23, Moscow 129515, Russia; Akademika Koroleva st., 13, bldg. 1, office 455, Moscow 129515, Russia; 1–Y Verkhniy Pereulok, 12B, Saint Petersburg, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5075029260 (Russia); Registration Number 1165075051404 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

81. MERIDIAN RESEARCH AND PRODUCTION FIRM JSC (a.k.a. AO NPF MERIDIAN; a.k.a. RPF MERIDIAN JSC), Ul. Blokhina D. 19, Saint Petersburg 197198, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7813113934 (Russia); Registration Number 1027806864535 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

82. METMA METAL AND CERAMIC MATERIALS PLANT JSC (a.k.a. AKTSIONERNOE OBSHCHESTVO ZAVOD METALLOKERAMICHESKIKH MATERIALOV METMA; a.k.a. AO METMA), Ul. Krylova D. 53A, Yoshkar Ola 424007, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 1215055989 (Russia); Registration Number 1021200754266 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

83. TREAL M LIMITED LIABILITY COMPANY, Proezd Boksitovyi Str. 1, Yekaterinburg 620030, Russia; Proletarskaya, 2A, office 26, Aramyl 624003, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6685108807 (Russia); Registration Number 1169658023358 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

84. ALGORITM TOCHNOSTI, Ul. Mayakovskogo D. 6A, Office 108, 109, 110, Elektrostal 144000, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5053037814 (Russia); Registration Number 1145053002808 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

85. ETASIS ELEKTRONIK TARTI ALETLERI VE SISTEMLERI SANAYI VE TICARET ANONIM SIRKETI (a.k.a. ETASIS A.S.), 2001 Cadde No 36, 75, Yil Mahallesi, Odunpazari 26250, Turkey; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7838098822 (Turkey); Registration Number 26355 (Turkey) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

86. VEKTOR ETALON (a.k.a. LIMITED LIABILITY COMPANY VECTOR ETALON), Nab. Obvodnogo Kanala D. 138, K. 1, Lit. V, Pomeshch. 5 N 20, Kom. 401 Chast, Saint Petersburg 190020, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7805764499 (Russia); Registration Number 1207800042009 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

87. AKTSIONERNOE OBSHCHESTVO KONSTRUKTORSKOE BYURO FARVATER (a.k.a. AO KB FARVATER; a.k.a. CLOSED JOINT STOCK COMPANY DESIGN BUREAU FARVATER; a.k.a. DESIGN CENTER FARVATER JSC; a.k.a. JOINT STOCK COMPANY DESIGN CENTER FARVATER), Nansena St., 154B, Rostov-on-Don 344010, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6163106808 (Russia); Registration Number 1116195002307 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

88. ALPHA M JOINT STOCK COMPANY RESEARCH AND PRODUCTION COMPLEX (a.k.a. AKTSIONERNOE OBSHCHESTVO NAUCHNO PROIZODSTVENNYI KOMPLEKS ALFA M; a.k.a. AO NPK ALFA M), Ul. Chkalova D. 36A, Office 31, Zhukovskiy 140180, Russia; Svyazi st., 25, Ryazan 390047, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5040125679 (Russia); Registration Number 1135040005594 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

89. ARTA SYSTEM LIMITED, Ul. Komsomolskaya Str., 17B, Pomeshch 3, Fryazino 141195, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5050155030 (Russia); Registration Number 1225000045951 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

90. INKOTEKH (a.k.a. INKOTECH LTD.), Nab. Vyborgskaya D. 55, K. 3, Lit. A, Pomeshch. 5–N, Saint Petersburg 194100, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7811285656 (Russia); Registration Number 1167847076825 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

91. IVK JOINT STOCK COMPANY (a.k.a. AO IVK; a.k.a. IVK JSC), Ul. Butyrskaya D. 75, Moscow 127015, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7702157005 (Russia); Registration Number 1027700115453 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

92. JOINT STOCK COMPANY RM TECHNOLOGIES (a.k.a. JOINT STOCK COMPANY RADIO CONTROL TECHNOLOGIES), Ul. Sofyi Kovalevskoi D. 20, Korp. 1, Lit. A, Pom. 22N, Saint Petersburg 195256, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order

14114.; Tax ID No. 7804436569 (Russia); Registration Number 1107847128729 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

93. K TECHNOLOGIES JOINT STOCK COMPANY (a.k.a. K TECHNOLOGY JOINT STOCK COMPANY; a.k.a. ''RTI, PAO''), Elektrozavodskaya St., 27, Bldg. 9, Moscow 107023, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7713723559 (Russia); Registration Number 1117746115233 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

94. LIMITED LIABILITY COMPANY PROTEY SPETSTEKHNIKA (a.k.a. PROTEI ST LTD), Pr-kt Bolshoi Sampsonievskii D. 60, BTS Telekom, Saint Petersburg 194044, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7802471913 (Russia); Registration Number 1097847159321 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

95. LIMITED LIABILITY COMPANY VIPAKS+, Presnenskaya nab., 12, Floor 41,, Office 5, Moscow 115162, Russia; Ul. Krasnova D. 24, Perm 614000, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5902140005 (Russia); Registration Number 1025900518181 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

96. MEZHDUNARODNYI KLUB OPTICHESKIKH INNOVATSII (a.k.a. ''MKOI''), Ul. Novodmitrovskaya D. 2, K. 2, Et/Pom.4/XXIIIB, Moscow 127015, Russia; Ul. Nizhnyaya D. 14., Str. 5, Moscow, 125040, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7715778105 (Russia); Registration Number 1097746622775 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

97. NAUCHNO PROIZVODSTVENNAYA FIRMA DOLOMANT (a.k.a. SCIENTIFIC PRODUCTION COMPANY DOLOMANT; a.k.a. ZAO NPF DOLOMANT), Ul. Vvedenskogo D. 3, Moscow 117342, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7728512529 (Russia); Registration Number 1047796326137 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

98. SCIENTIFIC EQUIPMENT GROUP OF COMPANIES (a.k.a. NAUCHNYE PRIBORY I SISTEMY; a.k.a. SCIENTIFIC EQUIPMENT GROUP), Ul. Inzhenernaya D. 4a, Of. 212, Novosibirsk 630128, Russia; Pr-kt Krasnyi D. 1, Office 214, Novosibirsk 630007, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5408308016 (Russia); Registration Number 1145476045241 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

99. AMS GROUP LLC (a.k.a. AMS GRUPP; a.k.a. ANALYTICAL MARKETING CHEMICAL GROUP), Pl. Konstitutsii D. 3, K. 2 Lit. A, Pom. 101N, Saint Petersburg 196247, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7810819993 (Russia); Registration Number 1117847091856 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

100. LIMITED LIABILITY COMPANY STROYTEKHNOLOGIYA (a.k.a. STROITEKHNOLOGIYA), Ul. Industrialnaya (Klimovsk Mkr.) D. 13, Pomeshch 15/6, Podolsk 142180, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5036121865 (Russia); Registration Number 1125074009840 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

101. PRINT KOLOR (a.k.a. ''PRINT COLOR''), Ul. Zheleznodorozhnaya D. 24, Shcherbinka 142171, Russia; Ul. Krasnodarskaya (Severnyi Mkr.) Str. 4, Domodedovo 142000, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5074112170 (Russia); Registration Number 1095074005234 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

102. GIF GROUPE DINVESTISSEMENT FINANCI OSBORNE DIS TIC LTD STI (a.k.a. OSBORNE DIS TICARET LIMITED SIRKETI), Yakuplu Mah. Hurriyet Bul. Skyport Sitesi, Skyport Residence Blok No. 1 ic, Kap 1 No. 64 Beylikduzu, Istanbul, Turkey; Organization Established Date 27 Jun 2022; Tax ID No. 6481617870 (Turkey) [RUSSIA–EO14024].

Designated pursuant to section 1 (a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SONATEC LIMITED LIABILITY COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 14024.

103. GROUPE D'INVESTISSEMENT FINANCIER SA (a.k.a. ''GIF SA''), Avenue De La Ferme Rose 7 B. 15, Brussels 1180, Belgium; Roze Hoevelaan 7 B. 15, Brussels 1180, Belgium; 243 Avenue Dolez, Uccle 1180, Belgium; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 20 Oct 2000; Identification Number 1298404–16 (Belgium); Registration Number 0473.155.607 (Belgium) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

104. SONATEC LIMITED LIABILITY COMPANY (a.k.a. SONATEK LLC), Ul. Usievicha D. 20, K. 3, Moscow 125315, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5027153451 (Russia); Registration Number 1095027010242 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

105. FENIKS (a.k.a. LIMITED LIABILITY COMPANY PHOENIX), Ul. Nizhegorodskaya D. 86, K. B, Pomeshch. 5/1, Moscow 109052, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's

military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6829115653 (Russia); Registration Number 1156829008489 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the construction sector of the Russian Federation economy.

106. KHIMTREID (a.k.a. LIMITED LIABILITY COMPANY HIMTREYD), Ul. Dekabristov D. 115, Pomeshch. 39, Kazan 420034, Russia; Tax ID No. 1661034040 (Russia); Registration Number 31121690069082 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the transportation sector of the Russian Federation economy.

107. LIMITED LIABILITY COMPANY BIYA KHIM, Ul. Eduarda Geideka D. 1, Biysk 659300, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 2204011974 (Russia); Registration Number 1022200567949 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

108. LIMITED LIABILITY COMPANY LENAKHIM (a.k.a. LENACHIM COMPANY LIMITED), Ul Marshala Govorova D. 29, Saint Petersburg 198095, Russia; Khimichesky Per., D. 1, Litera AN, Pomesh 10–N, Chast Pom 3, Saint Petersburg 198095, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7805182187 (Russia); Registration Number 1027802746179 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

109. LIMITED LIABILITY COMPANY NAVIMAKS GROUP (a.k.a. NAVIMAKS GRUPP), Sh. Korovinskoe D. 10, Str. 2, Office 3, Moscow 127486, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7715851725 (Russia); Registration Number 1117746101770 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

110. LIMITED LIABILITY COMPANY YARSPETSPOSTAVKA, Ul. Malays Proletarskaya ZD. 18A, Pomeshch. 53/3, Yaroslavl 150001, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7604383648 (Russia); Registration Number 1227600004279 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

111. LTD BINA GROUP (a.k.a. BINA GRUPP), Ul. Elektrozavodskaya D. 27, Str. 7, Moscow 107023, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7706725428 (Russia); Registration Number 1097746585452 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

112. OTRADNENSKAYA PAPER AND CARTON FACTORY LIMITED LIABILITY COMPANY (a.k.a. OTRADNENSKAYA P AND C FACTORY LLC; a.k.a. OTRADNENSKAYA P&C FACTORY LLC), Ul. Tsentralnaya D. 4, Pom/Of/Et 4/405/4, Otradnyy 187330, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 4706042352 (Russia); Registration Number 1214700011019 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

113. PROIZVODSTVENNO KOMMERCHESKAYA KOMPANIYA VIVA (a.k.a. LIMITED LIABILITY COMPANY PRODUCTION AND COMMERCIAL COMPANY VIVA), Ul. Bolshava Dorogomilovskaya D. 6, Str. 1, Pom. 1 Komnaty 1–7; 7A, Moscow 121059, Russia; Tax ID No. 7730611735 (Russia); Registration Number 1097746363043 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the metals and mining sector of the Russian Federation economy.

114. ALBAIT AL KHALEEJE GENERAL TRADING LLC (a.k.a. NORTH SOUTH CARGO), Industrial Area 18, Warehouses Lands, Warehouses 16–17, Al Maliha Street, Sharjah, United Arab Emirates; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 21 Nov 1994; Registration Number 118607 (United Arab Emirates) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

115. LIMITED LIABILITY COMPANY SPRING ELEKTRONIKS (a.k.a. SPRING ELECTRONICS), Prkt Malookhtinskii D. 61, Lit. A, Pomeshch. 2–N, Office 5½, Saint Petersburg 195112, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7806259957 (Russia); Registration Number 1177847007381 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

116. COMPONENT LOGISTIC LIMITED LIABILITY COMPANY, Pr-Kt Veteranov D. 63, Lit. A, Kv. 46, Saint Petersburg 198255, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 24 Mar 2021; Tax ID No. 7805777226 (Russia); Registration Number 1217800045462 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

117. GMM FZE, PO Box SHJ–124903, Sharjah, United Arab Emirates; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 13 Apr 2017; License 18050 (United Arab Emirates) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

118. GMM MANAGEMENT DMCC, Dubai, United Arab Emirates; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; License DMCC–786039 (United Arab Emirates); Economic Register Number (CBLS) 11554900 (United Arab Emirates) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

119. LAHIC ENERGY MAHDUD MASULIYYATLI CAMIYYATI, Qizil Sharq Harbi Shahar, Baku AZ1065, Azerbaijan; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's

military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 29 Oct 2019; Tax ID No. 1306384861 (Azerbaijan) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

120. AKTSIONERNOE OBSHCHESTVO VNIPIGAZDOBYCHA, 4, Sakko and Vantsetti Street, Saratov 410012, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6455010081 (Russia); Registration Number 1026403670127 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the construction sector of the Russian Federation economy.

121. NEFTEGAZSTROY (a.k.a. ''NGS''), Ul. Lenina D. 21/1, Neftekamsk 452680, Russia; Ul. Industrialnaya D. 15, K.A., Neftekamsk 452680, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 0253013650 (Russia); Registration Number 1020201432261 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the construction sector of the Russian Federation economy.

122. CHENGDU KEYLINK WIRELESS TECHNOLOGY CO., LTD (Chinese Simplified: 成都市卫莱科技有限公司), No. 2, F5, Building 5, No. 5 Xixin Avenue, High-Tech Zone, Chengdu, Sichuan Province, China (Chinese Simplified: 5 栋 5 层 2 号, 西芯大道 5 号, 高新区, 成都, 四川省, China); Website www.keylinkwireless.com; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 15 Aug 2019; Unified Social Credit Code (USCC) 91510100MA62LU6716 (China) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

123. IPM LIMITED (a.k.a. B&W CONSULTING), Suite A, 6/F, Ritz Plaza, 122 Austin Road, Tsimshatsui, Kowloon, Hong Kong, China; 1080, Blindengasse 46/15, Vienna, Austria; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 23 Nov 2012; Registration Number 1829992 (Hong Kong) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

124. SHVABE OPTO-ELECTRONICS CO., LTD (a.k.a. SHVABE OPTO-ELECTRONICS MEIZHOU CO., LTD (Chinese Simplified: 诗瓦贝光电梅州有限公司); a.k.a. SHVABE OPTO-ELECTRONICS SHENZHEN CO., LTD (Chinese Simplified: 诗瓦贝光电深圳有限公司); a.k.a. UOMZ MEIZHOU CO., LTD), 16A1619, No. 4044 Pingshan Boulevard, Heping Community, Pingshan Street, Pingshan District, Shenzhen, Guangdong Province, China (Chinese Simplified: 坪山大道 4044 号 16A1619, 坪山街道和平社区, 坪山区, 深圳市, 广东省, China); Website https://shvabe-oe.com/; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 20 Mar 2009; Unified Social Credit Code (USCC) 91441400686355518J (China) [RUSSIA-EO14024] (Linked To: JOINT STOCK COMPANY PRODUCTION ASSOCIATION URAL OPTICAL AND MECHANICAL PLANT NAMED AFTER E.S. YALAMOV).

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

125. CHIP SPACE ELECTRONICS CO., LIMITED (Chinese Traditional: 芯時空電子有限公司); Website www.chipspace-elec.com; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 21 Nov 2022; Company Number 3210227 (Hong Kong) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i)of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

126. HK HENGBANGWEI ELECTRONICS LIMITED (Chinese Traditional: 香港恆邦微電子有限公司), Room 2, 21F, Hip Kwan Commercial Building, 38 Pitt Street, Yau Ma Tei, Kowloon, Hong Kong, China (Chinese Traditional: 協群商業大廈 1 樓 02 室, 油麻地碧街 38 號, 九龍, 香港, China); Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 13 Jun 2022; Company Number 3162098 (Hong Kong) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

127. ALADDIN RD, Ul. Dokukina, D. 16, Korp. 1, Moscow 129226, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7719165935 (Russia); Registration Number 1027739490415 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

128. AVIV LLC (a.k.a. AVIV GRUPP), Nikoloyamskaya St., 16/2, bldg. 6, Moscow 109240, Russia; Ul. 2-ya Karacharovskaya D. 1, str. 1, et. 2, kom 39, Moscow 109202, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722837270 (Russia); Registration Number 1147746259924 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

129. CYBERSECURITY CENTER LLC (a.k.a. ''OOO TSKB''), Generala Martynova St., 3, Room 1, Chelyabinsk 454076, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7448223757 (Russia); Registration Number 1207400010905 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

130. ELAR, Shosse Leningradskoe, D. 15, Moscow 125171, Russia; Ul. 1-Ya Sovetskaya D. 36V chast/etazh 2/2 kom. 2,3,4,5, Rabochi pos., Shakhovskaya 143700, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7743028263 (Russia); Registration Number 1037700057780 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

131. LEKTRONNYI ARKHIV (a.k.a. ''ELAR''), Bumazhnyi Proezd D. 14, Str. 2, Moscow 127015, Russia; Sh. Leningradskoe Str. 25A, Office 9/3, Khimki 141402, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 9705001507 (Russia); Registration Number 5147746108868 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

132. HARDBERRY LIMITED LIABILITY COMPANY (a.k.a. HARDBERRY RUSFACTOR LLC; a.k.a. KHARDBERRI RUSFAKTOR), Ul. Pererva D. 55, Kv. 22, Moscow 109451, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7728845817 (Russia); Registration Number 1137746479310 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

133. JOINT STOCK COMPANY INTEGRAL ZAPAD (a.k.a. AKTSIONERNOE OBSHCHESTVO INTEGRAL ZAPAD), Ul. Babushkina D. 7, Office 21, Smolensk 214031, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6732139675 (Russia); Registration Number 1176733001840 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

134. JOINT STOCK COMPANY RAMEC VS (a.k.a. AO RAMEK VS), 5th Verhniy lane, 1/A/2, Saint Petersburg 194292, Russia; Ul. Obruchevykh D. 1, Saint Petersburg 195220, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7804060845 (Russia); Registration Number 1027802486502 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated

in the technology sector of the Russian Federation economy.

135. JOINT STOCK COMPANY SEA PROJECT (a.k.a. ZAO SI PROEKT), Ul. Marshala Govorova D. 52, Saint Petersburg 198095, Russia; Pl. Konstitutsii D. 7, Lit. A, Pom. 146N, Saint Petersburg 196191, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7825503960 (Russia); Registration Number 1037843083849 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

136. LIMITED LIABILITY COMPANY MIRP INTELLECTUAL SYSTEMS (a.k.a. MIRP INTELLECTUAL SYSTEMS INC; a.k.a. ''MIRP IS LTD''), Dimitrovskoe SH D. 100, Str. 2, Moscow 127591, Russia; Lenina st., 13–11, Dubna 141983, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5010036848 (Russia); Registration Number 1085010000822 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

137. OOO YUPEL (a.k.a. UPEL), prospekt Moskovski, d. 189/4, pom. 1/12, Voronezh 394066, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 3662175985 (Russia); Registration Number 1123668023566 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

138. RED DOLPHIN JOINT STOCK COMPANY (a.k.a. AO KRASNYI DELFIN; a.k.a. I SPHERA JOINT STOCK COMPANY), Per. Khimicheskii D. 1, Lit. BE, Floor 3, Pomeshch. 60, Saint Petersburg 198095, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Registration ID 1077847590040 (Russia); Tax ID No. 7805439611 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

139. SMART TURBO TECHNOLOGY LTD (a.k.a. OOO SMARTTURBOTEKH; a.k.a. SMART TURBO TEKHNOLODZHI; a.k.a. SMARTTURBOTECH LTD), ul. Kazanskaya, D. 1/25, lit. A, office 31–33, Saint Petersburg 191186, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722492033 (Russia); Registration Number 1207700352100 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

140. SUSU COMPUTER ENGINEERING CENTER (a.k.a. TSENTR KOMPYUTERNOGO INZHINIRINGA), Ordzhonikidze St., 50, Chelyabinsk 454091, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7448199173 (Russia); Registration Number 1167456142424 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

141. SWD EMBEDDED SYSTEMS (a.k.a. ''LLC SVD VS''; a.k.a. ''SWD ES LTD''), Kuznetsovskaya st., 19, Saint Petersburg 196128, Russia; PR–KT Moskovskii D. 212, Lit. A, Et/Vkh/P/Of, 2/84N/22/2077, Saint Petersburg 196066, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7810267943 (Russia); Registration Number 1027804848741 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

142. ALPHA IMPEX ITHALAT VE IHRACAT DIS TICARET LIMITED SIRKETI (a.k.a. ALPHA IMPEX IMPORT EXPORT FOREIGN TRADE LLC), Atakoy 7–8–9–10, Kisim Mah Cobancesme E–5 Yan Yol, Cad. A Blok No: 22/1 Ic Kapi No: 30, Bakirkoy, Istanbul, Turkey; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 13 Apr 2022 [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

143. JINMINGSHENG TECHNOLOGY HK CO LIMITED, Room 1838, Guoli Building, Zhonhang Rd, Futian District, Shenzhen 518031, China; Room 61868 6/F, Golconda Trade Center, 163 Zhenhau Rd, Futian District, Shenzhen 518031, China; Hong Kong, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 09 Dec 2008; Company Number 1292952 (Hong Kong); Business Registration Number 50093445 (Hong Kong) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

144. CAROVILLI TRADING SRO, Zamocka 7074/30, Bratislava 1, Bratislava 81101, Slovakia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 13 Feb 2014; Tax ID No. 2024072369 (Slovakia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

145. COMPLIGA (a.k.a. KOMPLIGA), Per. Spasskii D. 14/35, Lit. A, Pom. 71N, Office 405, Saint Petersburg 190031, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7838083791 (Russia); Registration Number 1187847376441 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

146. PIXEL DEVICES LIMITED (a.k.a. PIXEL DEVICES LTD), 16/F, New Hennessey Tower, 263 Hennessey Road, Wanchai, Hong Kong, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Identification Number 2569276 (Hong Kong); alt. Identification Number 68097456 (Hong Kong) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the technology sector of the Russian Federation economy.

147. AKTSIONERNOE OBSHCHESTVO CONSTRUCTION BUREAU ELECTRICAL PRODUCTS XXI CENTURY (a.k.a. AO KBE XXI CENTURY; a.k.a. AO KBE XXI VEKA; a.k.a. JOINT STOCK COMPANY DESIGN OFFICE OF ELECTROITEMS; a.k.a. JSC KBE XXI CENTURY; a.k.a. XXI CENTURY ELECTRO ITEMS DESIGN OFFICE JOINT STOCK COMPANY), Ul. Lermontova D. 2, Sarapul 427960, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian

Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 1827013520 (Russia); Registration Number 1021800997228 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

148. AKTSIONERNOE OBSHCHESTVO PROEKTNO KONSTRUKTORSKOE BYURO RIO (a.k.a. AO PKB RIO), d. 19 k. 9 litera Zh, ul. Uralskaya, Saint Petersburg 199155, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7805069865 (Russia); Registration Number 1027800540162 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

149. AKTSIONERNOE OBSHCHESTVO ZAVOD PROTON, PL. Shokina D. 1, STR. 6, Zelenograd 124498, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7735127119 (Russia); Registration Number 1037735024744 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

150. JOINT STOCK COMPANY ELECTROAVTOMATIKA, ul. Zavodskaya d. 9, Tolyatti 355008, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 2636008464 (Russia); Registration Number 1022601979894 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

151. JOINT STOCK COMPANY MEMOTHERM MM, Ul. Bronnitskaya D. 15, Pomeshch. 68, Podolsk 142103, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722009140 (Russia); Registration Number 1027700037705 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

152. JOINT STOCK COMPANY RESEARCH AND PRODUCTION ENTERPRISE IZMERITEL, UL. Babushkina D. 5, Smolensk 214031, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 6731036814 (Russia); Registration Number 1026701422076 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

153. JOINT STOCK COMPANY UMIRS (a.k.a. AO YUMIRS), Antonova st., 3, Penza 440600, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 5835015359 (Russia); Registration Number 1025801217947 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

154. LIMITED LIABILITY COMPANY ELIARS, Konstruktora Guskova st., 8, bldg. 1, Zelenograd, Moscow 124460, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7735140825 (Russia); Registration Number 1157746097629 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

155. LIMITED LIABILITY COMPANY HOTU TENT (a.k.a. KHOTU TENT), Truda St., 1, Yakutsk 677000, Russia; Ul. Kirova D. 31/1, Kv. 92, Yakutsk 677027, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 1435347144 (Russia); Registration Number 1191447014714 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

156. LIMITED LIABILITY COMPANY LENCABEL (a.k.a. LENKABEL; a.k.a. OBSHCHESTVO S OGRANICHENNOY OTVETSTVENNOSTYU LENCABEL), Ul. Samoilovoi D. 5, Lit. I, Pomeshch. 11N, Office 31–32, Saint Petersburg 192102, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7816339601 (Russia); Registration Number 1167847387366 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

157. LIMITED LIABILITY COMPANY NEWTON TECHNICS (a.k.a. LLC NEWTON TECHNIKS), Ferrosplavnaya st., 126A, office 4204, Chelyabinsk 454084, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7453330433 (Russia); Registration Number 1197456035215 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

158. LIMITED LIABILITY COMPANY QUANTUM OPTICS (a.k.a. OOO QUANTUM OPTICS; a.k.a. QUANTUM OPTICS LTD), Ul. Serdobolskaya D. 64, Lit. K, Pomeshch. 11–N, Kom. 10, Saint Petersburg 197342, Russia; Beloostrovskaya 22, Office 415, Saint Petersburg 197342, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7801562614 (Russia); Registration Number 1117847563921 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

159. LIMITED LIABILITY COMPANY RADIOIZMERENIYA, ul. Soldatskaya, d. 8, pomeshch. 205–2, Kazan 420066, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 1658229360 (Russia); Registration Number 1201600086852 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

160. LIMITED LIABILITY COMPANY TRADING AND PRODUCTION COMPLEX MAXIMUM (a.k.a. LLC TPK MAXIMUM; a.k.a. TORGOVO PROIZVODSTVENNYI KOMPLEKS MAKSIMUM; a.k.a. TPK MAKSIMUM), Ul. Malakhovskogo D. 52, Pomeshch. 10, Voronezh 394019, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No.

3662204227 (Russia); Registration Number 1143668026435 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

161. LLC ZAVOD SPETSAGREGAT, UL. 8 Iyulya 10 A, Miass 456300, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7448069375 (Russia); Registration Number 1057422041005 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

162. MANUFACTURING COMPANY LTD LEMA, Novgorodsky ave., 32B, office 311, Arkhangelsk 163002, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 2901152242 (Russia); Registration Number 1062901063170 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

163. OOO GIKEL, ul. Druzhinnikov, d. 5 ofis 411, Voronezh 394026, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 3662995875 (Russia); Registration Number 1153668022243 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

164. UNIFIED METALWORKING CENTER (a.k.a. EDINYI TSENTR METALLOOBRABOTKI; a.k.a. ''ETSM''), 11V Mikhailova St., Saint Petersburg 195009, Russia; Pr-Kt Engelsa D. 27, Lit. K, Pomeshch. 1–N, Kom. 52, Saint Petersburg 194156, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7802574250 (Russia); Registration Number 1167847190169 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the manufacturing sector of the Russian Federation economy.

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165. FINDER TECHNOLOGY LTD (Chinese Traditional: 超達科技有限公司), Unit A, 7/F, Yeung Yiu Chung, No. 7 Industrial Building, 2 Fung Yip Street, Chai Wan, Hong Kong, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 04 Apr 2005; Commercial Registry Number 960469 (Hong Kong); Business Registration Number 35585540 (Hong Kong) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i)of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

166. JUHANG AVIATION TECHNOLOGY SHENZHEN CO., LTD. (Chinese Simplified: 巨航航空科技深圳有限公司), 2205, No. 2, Logistics Center, Baoshui Logistics Center, Baoan Guoji Jichang Hangzhan, 4th Road, Hourui Community, Hangcheng Sub-District, Bao, Shenzhen, Guangdong 518099, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 18 Mar 2021; Unified Social Credit Code (USCC) 91440300MA5GN73B4F (China) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i)of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

167. LIMITED LIABILITY COMPANY ULTRAN ELECTRONIC COMPONENTS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ УЛЬТРАН ЭЛЕКТРОННЫЕ КОМПОНЕНТЫ) (a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU ULTRAN ELEKTRONNYE KOMPONENTY; a.k.a. ULTRAN EK OOO (Cyrillic: ООО УЛЬТРАН ЭК)), d. 22, litera L, pom. 1-N, kom. 8, ul. Politekhnicheskaya, St. Petersburg 194021, Russia; Website ultran.ru; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 20 Jun 2018; Tax ID No. 7802669110 (Russia); Government Gazette Number 29702993 (Russia); Business Registration Number 1187847176330 (Russia) [RUSSIA-EO14024].

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Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

168. RG SOLUTIONS LIMITED, Room 606, 6/F, Celebrity Commercial Center, 64 Castle Peak Road, Sham Shui Po, Kowloon, Hong Kong, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 02 Jul 2014; Commercial Registry Number 2115045 (Hong Kong); Business Registration Number 63526362 (Hong Kong) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

169. TULUN INTERNATIONAL HOLDING LIMITED (Chinese Traditional: 圖龍國際控股有限公司), Office Unit B, 9/F, Thomson Commercial Building, 8 Thomson Road, Hong Kong, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 09 Sep 2022; Commercial Registry Number 3189120 (Hong Kong); Business Registration Number 74410043 (Hong Kong) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

170. AKSIOMA LIMITED LIABILITY COMPANY (a.k.a. ''AKSIOMA''; a.k.a. ''LLC AXIOM''), Ul. Entuziastov 1–YA D. 12, Chast Kom #15, Moscow 111024, Russia; Organization Established Date 10 May 2017; Tax ID No. 7720380736 (Russia); Registration Number 1177746461012 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, RADIOAVTOMATIKA LLC, a person whose property and interests in property are blocked pursuant to E.O. 14024.

171. ALFA LIMITED LIABILITY COMPANY (a.k.a. ''LLC ALFA''), Ul. 2–YA Alekseevskaya D. 7, Lit. A, Pomeshch. 25N, Office 2, Saint Petersburg 197375, Russia; Organization Established Date 15 Feb 2022; Tax ID No. 7802921915 (Russia); Registration Number 1227800017818 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, RADIOAVTOMATIKA LLC, a person whose property and interests in property are blocked pursuant to E.O. 14024.

172. BIMLOGIC LIMITED LIABILITY COMPANY (a.k.a. BIMLOGIC LLC), PR–KT Narodnogo Opolcheniya D. 10, Lit. A, Pomeshch. 238–N, Office 238L, Saint Petersburg 198216, Russia; Organization Established Date 14 Apr 2022; Tax ID No. 7807255955 (Russia); Registration Number 1227800047200 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, NOVASTREAM LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 14024.

173. GLOBAL KEY LIMITED LIABILITY COMPANY (a.k.a. ''GLOBAL KEI''; a.k.a. ''NOYFOX AS LTD.''), Ul. Ivana Fomina D. 6, Lit. B, Pomeshch. 402A, 402B, Saint Petersburg 194295, Russia; website global-key.ru; Organization Established Date 18 Aug 2015; Tax ID No. 7802536470 (Russia); Registration Number 1157847282119 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, RADIOAVTOMATIKA LLC, a person whose property and interests in property are blocked pursuant to E.O. 14024.

174. JOINT STOCK COMPANY MILITECH (a.k.a. MILITECH JSCO), Ul. Lukinskaya D. 4, Pomeshch. 1, Moscow 119634, Russia; Organization Established Date 13 Sep 2022; Tax ID No. 9706026110 (Russia); Registration Number 1227700569810 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, SELIVERSTOV, Ivan Vladimirovich, a person whose property and interests in property are blocked pursuant to E.O. 14024.

175. LEDA LIMITED LIABILITY COMPANY (a.k.a. ''LLC LEDA''), Ul. Gorbunova D. 2, Str. 3, Pomeshch. 31/2, Moscow 121596, Russia; Organization Established Date 21 Feb 2014; Tax ID No. 7731466061 (Russia); Registration Number 1147746159549 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, MOZHAYEV, Yegor Igoryevich, a person whose property and interests in property are blocked pursuant to E.O. 14024.

176. MILITECHTRADE LIMITED LIABILITY COMPANY (a.k.a. MILITECHTRADE LLC), Ul. Ryabinovaya D. 61A, Str. 1, Moscow 121471, Russia; Organization Established Date 19 Oct 2022; Tax ID No. 9706027480 (Russia); Registration Number 1227700679216 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, SELIVERSTOV, Ivan Vladimirovich, a person whose property and interests in property are blocked pursuant to E.O. 14024.

BILLING CODE 4810–AL–P

177. HENGSHUI HESHUO CELLULOSE CO., LTD. (Chinese Simplified: 衡水和硕纤维素有限公司), East Side of Taishan Street, Yanhuan Circular Economy Park, Jizhou District, Hengshui, Hebei Province, China (Chinese Simplified: 泰山大街东侧, 盐化工循环经济园, 冀州区, 衡水市, 河北省, China); Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 04 Jan 2016; Unified Social Credit Code (USCC) 91131181MA07MANB7G (China) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i)of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

178. HENGSHUI YUANCHEM TRADING LIMITED (Chinese Simplified: 衡水元展贸易有限公司), No. 29 Qiantong Road, Qiaotou Town, Wuyi County, Hengshui City, Hebei Province, China (Chinese Simplified: 千童路 29 号, 桥头镇, 武邑县, 衡水市, 河北省, China); No. 365, Xinhua Street, Hengshui, Hebei Province, China; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 30 Mar 2015; Unified Social Credit Code (USCC) 91131122335912693D (China) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the defense and related materiel sector of the Russian Federation economy.

179. AKTSIONERNOE OBSHCHESTVO RAU FARM (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО РАУ ФАРМ) (a.k.a. AO RAU FARM (Cyrillic: АО РАУ ФАРМ); a.k.a. JOINT STOCK COMPANY RAU PHARM; a.k.a. JSC RAW FARM), ul. Mnevniki, D. 3, K. 1, ET/KOM 1/12, Moscow 123308, Russia (Cyrillic: УЛИЦА МНЁВНИКИ, ДОМ 3, КОРПУС 1, ЭТ/КОМ 1/12, МОСКВА 123308, Russia); Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 05 Oct 1999; alt. Organization Established Date 27 Aug 2002; Tax ID No. 7701220889 (Iran); Government Gazette Number 51115868 (Iran); Business Registration Number 1027739119650 (Russia) [NPWMD] [RUSSIA-EO14024] (Linked To: 27TH SCIENTIFIC CENTER).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of 27TH SCIENTIFIC CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13382.

180. INTELLER LLC (Cyrillic: ООО ИНТЕЛЛЕР) (a.k.a. INTELLER LIMITED LIABILITY COMPANY (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ИНТЕЛЛЕР)), ul. Sovetskaya (Pervomaiskii Mkr), D. 31, Pomeshch. 2, Kab. 1, Korolev, Moscow Oblast 141069, Russia (Cyrillic: УЛ. СОВЕТСКАЯ (ПЕРВОМАЙСКИЙ МКР), Д. 31, ПОМЕЩ. 2, КАБ.1, КОРОЛЁВ, МОСКОВСКАЯ ОБЛАСТЬ 141069, Russia); Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Organization Established Date 25 Sep 2019; Organization Type: Wholesale of other machinery and equipment; Tax ID No. 5018201606 (Russia); Government Gazette Number 41610288 (Russia); Business Registration Number 1195081071756 (Russia) [NPWMD] [RUSSIA-EO14024] (Linked To: AKTSIONERNOE OBSHCHESTVO RAU FARM).

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of AKTSIONERNOE OBSHCHESTVO RAU FARM, a person whose property and interests in property are blocked pursuant to E.O. 13382.

181. OBSHCHESTVO S ORGANICHENNOI OTVETSTVENNOSTYU BIO FARM TREID (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ БИО ФАРМ ТРЕЙД) (a.k.a. BIO PHARM TRADE LLC (Cyrillic: ООО БИО ФАРМ ТРЕЙД)), Per Bolshoi Tishinskii, D. 43/20, Str. 2, Floor/Kom. 2/10, Moscow 123557, Russia; Organization Established Date 31 May 2021; Tax ID No. 9703036085 (Russia); Government Gazette Number 60163642 (Russia); Business Registration Number 1217700255024 (Russia) [NPWMD] [RUSSIA-EO14024] (Linked To: GAVRYUCHENKOV, Andrei Viktorovich).

BILLING CODE 4810–AL–C

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly, GAVRYUCHENKOV, Andrei Viktorovich, a person whose property and interests in property are blocked pursuant to E.O. 14024.

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of GAVRYUCHENKOV, Andrei Viktorovich, a person whose property and interests in property are blocked pursuant to E.O. 13382.

B. On May 14, 2024, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individual

1. BELOGLAZOV, Dmitrii Aleksandrovich, Russia; DOB 18 Feb 1968; POB Russia; nationality Russia; Gender Male (individual) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

Entities:

1. AKTSIONERNOE OBSHCHESTVO ILIADIS (a.k.a. JOINT STOCK COMPANY ILIADIS), Per. 3–1 Syromyatnicheskii D. 3/9 Str. 1, Moscow 105120, Russia; Tax ID No. 9709096348 (Russia); Registration Number 1237700470842 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

2. INTERNATIONAL COMPANY JOINT STOCK COMPANY RASPERIA TRADING LIMITED (Cyrillic: МЕЖДУНАРОДНАЯ КОМПАНИЯ АКЦИОНЕРНОЕ ОБЩЕСТВО РАСПЕРИА ТРЕЙДИНГ ЛИМИТЕД) (a.k.a. МКАО RASPERIA TREIDING LIMITED), B-R Solnechnyi D. 25 Pomeshch, A/60, Kaliningrad 236006, Russia; Organization Established Date 22 Nov 2006; Tax ID No. 3906380371 (Russia); Legal Entity Number 253400ENFDC2JU84CJ30; Registration Number 1193926007153 (Russia) [RUSSIA-EO14024] (Linked To: AKTSIONERNOE OBSHCHESTVO ILIADIS).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or for having acted or purported to act for or on behalf of, directly or indirectly AKTSIONERNOE OBSHCHESTVO ILIADIS, a person whose property and interests in property are blocked pursuant to E.O. 14024.

3. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTIU TITUL (a.k.a. LIMITED LIABILITY COMPANY TITUL), Ul. Krasina, 7 str. 2, kom. 3, Moscow 123056, Russia; Tax ID No. 7703474952 (Russia); Registration Number 1197746281897 (Russia) [RUSSIA–EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the financial services sector of the Russian Federation economy.

C. On July 8, 2024, OFAC removed the following entry from the SDN List.

Entity

1. CSOFT DEVELOPMENT, Ul. Boitsovaya D. 17, K. 3, Pomeshch. 12 Komnatad 3B, Moscow 107150, Russia; Secondary sanctions risk: this person is designated for operating or having operated in a sector of the Russian Federation economy determined to support Russia's military-industrial base pursuant to section 11 of Executive Order 14024, as amended by Executive Order 14114.; Tax ID No. 7722570620 (Russia); Registration Number 1067746335711 (Russia) [RUSSIA–EO14024].

Dated: July 8, 2024.

Bradley T. Smith,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2024–15285 Filed 7–11–24; 8:45 am]

BILLING CODE 4810–AL–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meetings

TIME AND DATE: July 17, 2024, 11:00 a.m. to 2:00 p.m., Eastern Time.

PLACE: The meeting will take place at the Hotel Indigo Traverse City, MI 263 W Grandview Parkway, Traverse City, MI 49684. This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll), Meeting ID: 914 7714 4387, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJUpcO6pqj8pEtNcK-oG8Nq_jFu8LDIStCV9.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The agenda will be reviewed, and the Subcommittee will consider adoption of the agenda.

Ground Rules

Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes from the February 15, 2024, Meeting—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the February 15, 2024, Subcommittee meeting will be reviewed. The Subcommittee will consider action to approve.

V. 2026 Registration Fee Analysis and Recommendation—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair will provide an analysis pertaining to the setting of 2026 registration fees and a 2026 registration fee recommendation. The Subcommittee may take action to recommend to the Board a 2026 registration fee recommendation.

VI. Revenues from 2023 and 2024 Fees—UCR Depository Manager

The UCR Depository Manager will review the revenues received from the 2023 and 2024 plan year fees.

VII. Management Report—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on UCR finances and related topics, to include current market rates on deposits, CDs, and Treasuries.

VIII. Truist Bank—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Subcommittee Action

The Finance Subcommittee Chair and UCR Depository Manager will discuss potentially moving UCR Plan bank accounts from Truist Bank to a different bank. The Subcommittee may take action to recommend to the Board that the UCR Plan move bank accounts from Truist Bank to a different bank.

IX. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

X. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, July 8, 2024 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2024–15449 Filed 7–10–24; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0270]

Agency Information Collection Activity Under OMB Review: Financial Counseling Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0270.''

FOR FURTHER INFORMATION CONTACT: *VA PRA information:* Maribel Aponte, 202–461–8900, *vacopaperworkreduact@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Financial Counseling Statement, VA Form 26–8844.

OMB Control Number: 2900–0270 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8844 provides for recording comprehensive financial information concerning the borrower's net income, total expenditures, net worth, suggested areas for which expenses can be reduced or income increased, the arrangement of a family budget and recommendations for the terms of any repayment agreement on the defaulted loan.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Volume 89 FR 38222, May 7, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 5,000 per year.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–15334 Filed 7–11–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Advisory Committee on Disability Compensation (hereinafter the Committee) will hold meeting sessions on Tuesday, July 30, 2024, through Thursday, August 1, 2024, at various locations in Columbia, South Carolina, and shown below. The meeting sessions will begin and end as follows:

Date	Time	Location	Open session
July 30, 2024	9:00 a.m.–4:30 p.m. Eastern Daylight Time (EDT)	Columbia Regional Office, 6437 Garners Ferry Road, Columbia, SC 29209.	No.
July 31, 2024	9:00 a.m.–3:30 p.m. EDT	Columbia Regional Office, 6437 Garners Ferry Road, Columbia, SC 29209.	Yes.
August 1, 2024	9:00 a.m.–12:00 p.m. EDT	Columbia VA Health Care System, 6439 Garners Ferry Rd., Columbia, SC 29209.	No.
August 1, 2024	2:00 p.m.–4:30 p.m. EDT	Columbia, SC Vet Center, 1710 Richland Street Suite A, Columbia, SC 29201.	No.

Sessions are open to the public, except when the Committee is conducting tours of VA facilities. Tours of VA facilities are closed to protect Veterans' privacy and personal information, in accordance with 5 U.S.C. 552b(c)(6).

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities (VASRD). The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the VASRD, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation in the future.

On Tuesday, July 30, 2024, the Committee will convene a closed session from 9:00 a.m. to 4:30 p.m. EDT, as it tours the Columbia Regional Office. Tours of VA facilities are closed to protect Veterans' privacy and personal information, in accordance with 5 U.S.C Sec. 552b(c)(6).

On Wednesday, July 31, 2024, the Committee will convene an open session from 9:00 a.m. to 3:30 p.m. EDT to hold a Veterans Townhall and meet with Veteran Service Officers and Congressional/Senatorial staffers.

On Thursday, August 1, 2024, the Committee will convene a closed session from 9:00 a.m. to 4:30 p.m. EDT, as it tours the Columbia VA Health Care System and the Columbia Vet Center. Tours of VA facilities are closed to protect Veterans' privacy and personal information, in accordance with 5 U.S.C 552b(c)(6).

The public is invited to address the Committee during the public comment period, which will be open for 30 minutes from 11:00 a.m. to 11:30 a.m. EDT on Wednesday, July 31, 2024. The public can also submit one-page summaries of their written statements for the Committee's review. Public comments must be received no later than July 24, 2024, for inclusion in the official meeting record. Please send these comments to Jadine Piper of the Veterans Benefits Administration, Compensation Service, at *21C_ACDC.VBACO@va.gov.*

Additionally, any member of the public or media planning to attend or seeking additional information, or those who wish to obtain a copy of the agenda should contact Jadine Piper at *21C_ACDC.VBACO@va.gov,* the call-in number (United States, Chicago) for those who would like to attend the meeting is: 872–701–0185; phone conference ID: 101 350 725 #. Members of the public may also access the meeting by pasting the following URL into a web browser: *https://bit.ly/ACDCMeetingColumbia2024.*

Dated: July 9, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–15328 Filed 7–11–24; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 89 Friday,

No. 134 July 12, 2024

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Pearl River Map Turtle With Section 4(d) Rule; and Threatened Species Status for Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle Due to Similarity of Appearance With Section 4(d) Rule; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2021–0097; FXES1111090FEDR–245–FF09E21000]

RIN 1018–BF42

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Pearl River Map Turtle With Section 4(d) Rule; and Threatened Species Status for Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle Due to Similarity of Appearance With Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), list the Pearl River map turtle (*Graptemys pearlensis*), a freshwater turtle species from the Pearl River drainage in Mississippi and Louisiana as a threatened species with 4(d) protective regulations under the Endangered Species Act of 1973 (Act), as amended. Due to similarity of appearance, we also list the Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), and Pascagoula map turtle (*Graptemys gibbonsi*) as threatened species with 4(d) protective regulations under the Act. This rule adds these species to the List of Endangered and Threatened Wildlife.

DATES: This rule is effective August 12, 2024.

ADDRESSES: This final rule is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2021–0097 and at the Service's Environmental Conservation Online System (ECOS) species page at *https://ecos.fws.gov/ecp/species/10895*. Comments and materials we received, as well as supporting documentation we used in preparing this rule (such as the species status assessment report), are available for public inspection at *https://www.regulations.gov* at Docket No. FWS–R4–ES–2021–0097.

FOR FURTHER INFORMATION CONTACT: James Austin, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Ecological Services Field Office, 6578 Dogwood View Parkway, Suite A, Jackson, MS 39213; telephone 601–321–1129. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act (16 U.S.C. 1531 *et seq.*), a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the Pearl River map turtle meets the Act's definition of a threatened species; therefore, we are listing it as such. In addition, due to similarity of appearance, we have determined threatened species status for the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle. Listing a species as an endangered or threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This rule lists the Pearl River map turtle as a threatened species with a rule issued under section 4(d) of the Act (a ''4(d) rule''). It also lists the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened species based on their similarity of appearance to the Pearl River map turtle under section 4(e) of the Act with a 4(d) rule for these species.

In our November 23, 2021, proposed rule, we found critical habitat to be not prudent for the Pearl River map turtle because of the potential for an increase in poaching. However, we have reevaluated the prudency determination based on public comment and the already available information in the public domain that indicates where the species can be found. Consequently, we have determined that critical habitat is prudent but not determinable at this time for the species. We intend to publish a proposed rule designating critical habitat for the Pearl River map turtle in the near future.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five 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. We have determined that the threats to the Pearl River map turtle include habitat degradation or loss (degraded water quality, channel and hydrologic modifications/impoundments, agricultural runoff, mining, and development—Factor A), collection (Factor B), and effects of climate change (increasing temperatures, drought, sea-level rise (SLR), hurricane regime changes, and increased seasonal precipitation—Factor E).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, concurrently with listing designate critical habitat for the species. We have not yet been able to obtain the necessary economic information needed to develop a proposed critical habitat designation for the Pearl River map turtle, although we are in the process of obtaining this information. At this time, we find that designation of critical habitat for the Pearl River map turtle is not determinable. When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

Previous Federal Actions

Please refer to the proposed listing rule (86 FR 66624; November 23, 2021) for a detailed description of previous Federal actions concerning the Pearl River map turtle, Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the Pearl River map turtle (Service 2023, entire). 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 in listing actions under the Act,

we solicited independent scientific review of the information contained in the Pearl River map turtle SSA report, version 1.1 (Service 2021, entire). We sent the SSA report to five independent peer reviewers and received responses from all five reviewers; three substantive comments were provided by two peer reviewers. We notified Tribal nations early in the SSA process for the Pearl River map turtle. We sent the draft SSA report for review to the Mississippi Band of Choctaw Indians and received comments that were addressed in the SSA report. The peer reviews can be found at *https://www.regulations.gov* at Docket No. FWS–R4–ES–2021–0097 and at our Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). In preparing the proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which was the foundation for the proposed rule and this final rule. A summary of the peer review comments and our responses can be found in the Summary of Comments and Recommendations, below.

Summary of Changes From the Proposed Rule

After consideration of the comments we received during the November 23, 2021, proposed rule's comment period (refer to Summary of Comments and Recommendations, below), and new information published or obtained since the proposed rule was published, we updated the SSA report to include new information. The revised SSA report is available as version 1.2 (Service 2023, entire). In addition, in this final rule, we add information to the listing determination for the Pearl River map turtle and the associated 4(d) rule's exceptions to prohibitions. Many small, nonsubstantive changes and corrections, which do not affect the determination (*e.g.,* minor clarifications, correcting grammatical errors, etc.), are made throughout this document. Below is a summary of changes we make in this final rule.

(1) We update the citation for one literature source reporting on the status of the Pearl River and Pascagoula map turtles (Lindeman et al. 2020, entire) to reflect its recent publication in a peer-reviewed journal.

(2) We incorporate an additional citation (Refsnider et al. 2016, entire) to discuss how the potential for climate change-induced impacts to turtle hatchling sex ratios, a result of these turtles exhibiting temperature-dependent sex determination (TSD), may be mitigated by plasticity of TSD thermal sensitivity and the mother turtle's ability for nest-site selection.

(3) For the Pearl River map turtle's 4(d) rule, we do not include an exception from the incidental take prohibition resulting from construction, operation, and maintenance activities that occur near and in a stream. We determined that this exception is too vague and could have caused confusion regarding whether State or Federal regulatory processes apply to these activities. Many activities occurring near or in a stream require permits or project review by Federal or State agencies, and including this exception could have been interpreted as removing these requirements, which was not our intention. Therefore, we find that finalizing a 4(d) rule that included this exception to incidental take is not necessary and advisable for the conservation of the species.

(4) For the Pearl River map turtle's 4(d) rule, we do not include an exception from the incidental take prohibition resulting from maintenance dredging activities that remain in the previously disturbed portion of a maintained channel. We determined that this exception is too vague and could have caused confusion regarding whether State or Federal regulatory processes apply to these activities. In addition, dredging activities to promote river traffic can cause temporary turbidity, leading to smothering of prey species (*e.g.,* aquatic invertebrates) and decreased ability of the Pearl River map turtle to forage on these species; the removal of underwater snags, which could further reduce prey availability by eliminating areas where prey is found; and the removal of sheltering and basking locations for the turtle. All in-water work, including dredging in a previously dredged area, requires appropriate State and Federal permits, so including this exception could have been interpreted as removing this requirement, which was not our intention. Therefore, we find that finalizing a 4(d) rule that included this exception to incidental take is not necessary and advisable for the conservation of the species.

(5) For the Pearl River map turtle's 4(d) rule, we do not include an exception to the incidental take prohibitions resulting from herbicide/pesticide use in this final rule. We do not have enough information about the types or amounts of pesticides that may be applied in areas where Pearl River map turtle occurs to be able assess the future impacts to the species. The additional materials provided during the public comment period indicate impacts to other turtle species from pesticide use occurs (de Solla et al. 2014, entire; Douros et al. 2015, pp.113–114 ; Kittle et al. 2018, entire; Smith et al. 2020, entire; EPA 2021a, at Ch. 4, Appendix 4–1; EPA 2021d, at Ch. 2; EPA 2021e, at Ch. 2, EPA2021e, at Ch. 4, Appendix 4–1). Further, we note that the Environmental Protection Agency (EPA) has not consulted on most pesticide registrations to date, so excepting take solely based on user compliance with label directions and State and local regulations EPA has not consulted on most pesticide registrations to date and is not appropriate in this situation. Retaining this exception in the absence of consultation on a specific pesticide registration may create confusion regarding the consideration of these impacts and whether Federal regulatory processes apply to these activities. It was not our intent to supersede the consultation on the pesticide registration nor other Federal activities. Therefore, we find that finalizing a 4(d) rule that included this exception to incidental take is not necessary and advisable for the conservation of the species.

(6) For the Pearl River map turtle 4(d) rule and Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle 4(d) rule, we make minor revisions to the preamble's description of the prohibitions and exceptions in our rule issued under section 4(d) of the Act (''4(d) rule'') in the preamble of this final rule to be consistent with the regulatory text that sets forth the 4(d) rule. While we have refined the text, the substance of the prohibitions and exceptions has not changed, except as outlined above.

In addition, we inadvertently left off from the proposed 4(d) rule for the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle the 17.21(d)(2) provision regarding possession and engaging in other acts with unlawfully endangered wildlife by Federal and State law enforcement, and we have added this to final rule itself.

(7) We update the information on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; 27 U.S.T. 1087, TIAS 8249) to reflect that the Pearl River map turtle (*Graptemys pearlensis*), Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), and Pascagoula map turtle (*Graptemys gibbonsi*) were transferred from Appendix III of CITES to Appendix II (CITES 2023, p. 46).

(8) We reevaluated the critical habitat prudency determination for the Pearl River map turtle and now find that critical habitat is prudent but not

determinable at this time for the species. We intend to publish a proposed rule designating critical habitat for the Pearl River map turtle in the near future.

Summary of Comments and Recommendations

In our November 23, 2021, proposed rule (86 FR 66624), we requested that all interested parties submit written comments on the proposal by January 24, 2022. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in USA Today on December 8, 2021. We did not receive any requests for a public hearing. All substantive information provided to us during the comment period has been incorporated directly into this final rule or is addressed below.

Peer Reviewer Comments

As discussed in Peer Review, above, we received comments from five 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 contents of the SSA report. Most comments received were grammatical and improved accuracy and readability of the SSA. The three substantive comments from peer reviewers are addressed in the following summary. As discussed above, because we conducted this peer review prior to the publication of our November 23, 2021, proposed rule (86 FR 66624), we had already incorporated all applicable peer review comments into version 1.2 of the SSA report (Service 2023, entire), which is the foundation for the proposed rule and this final rule.

The peer reviewers generally concurred with our methods and conclusions and provided additional information and suggestions for clarifying and improving the accuracy of the updated version of the SSA report. Three substantive comments from peer reviewers are addressed in the following summary and were incorporated into the SSA report, version 1.2 (Service 2023, entire), as appropriate.

Peer Reviewer Comments

(1) Comment: One peer reviewer questioned how the assessment of future condition of the Pearl River map turtle could be conducted without knowing population trends through time compared to historical baseline data or through the use of demographic or viability models.

Our Response: Limited historical data exist for the Pearl River map turtle to provide a sufficient baseline to determine current or future population trends or densities. In addition, the limited amount of historical data prohibited the Service from modeling population viability or demographics. The best available science was used to assess future condition based on projected increases in potential threats, which resulted in the Service concluding that the Pearl River map turtle meets the Act's definition of a threatened species. We have added a statement in the SSA report to clarify the lack of research on population trends and demographics through time.

(2) Comment: One peer reviewer questioned if locations that were deemed high density for the population estimates are actually comparable to historical high density or are just populations that are slowly declining towards extirpation.

Our Response: Since historical densities are unknown, it was not feasible to determine if locations recently classified as high density are comparable to historical high-density locations. Density classifications were based on recent basking density surveys (Lindeman et al. 2020, entire) representing the current status of the Pearl River map turtle.

(3) Comment: One peer reviewer mentioned water quality issues associated with large-scale chicken operations on the Strong River.

Our Response: To determine how this additional water quality information would impact the overall composite score, we decreased the water quality score for the Pearl River-Strong and Pearl River-Silver resilience units from moderate to low; however, the overall composite score for both resilience units is still classified as moderate even with a low water quality classification. Thus, the overall composite score for the resilience units did not change, and we retain the original scoring classifications. We appreciate the additional reference material, and these water quality issues were updated in the SSA report, version 1.2 (Service 2023, pp. 25–27, 65).

Comments From States

The Georgia Department of Natural Resources (GaDNR) Wildlife Resources Division provided a comment letter in support of listing the Barbour's map turtle and Escambia map turtle as threatened due to similarity of appearance. The Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) provided a comment letter in support of listing the Pearl River map turtle as threatened and listing the Pascagoula map turtle, Alabama map turtle, Escambia map turtle, and Barbour's map turtle as threatened due to similarity of appearance. The Florida Fish and Wildlife Conservation Commission (FWC) submitted a letter in opposition to listing the Escambia map turtle and Barbour's map turtle as threatened due to similarity of appearance because of potential conflicting regulations and expected regulatory confusion within the State. Federal listing would shift permitting for take from FWC to the Service, potentially causing regulatory confusion among stakeholders about: (1) the legality of possession of these species in Florida, and (2) whether or not a State permit for incidental take of these species is required. The Service is actively working with FWC to rectify conflicts between State regulations and those Federal regulations that provide protection under the Act.

Public Comments

(4) Comment: One commenter questioned the not-warranted finding for the Pascagoula map turtle due to the lower population abundances when compared with other federally threatened map turtles such as the ringed map turtle (*Graptemys oculifera*) and yellow-blotched map turtle (*G. flavimaculata*).

Our Response: Listing of a species is not dependent upon the population abundances of previously listed species. The Pascagoula map turtle does not meet the Act's definition of either an endangered species or a threatened species based on the analysis of its current and future conditions using the best available science. The 12-month finding and all other supporting information can be found on the internet at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2021–0097.

However, in this rule, we are listing the Pascagoula map turtle along with Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), and Escambia map turtle (*Graptemys ernsti*) as threatened species due to similarity of appearance to the Pearl River map turtle.

(5) Comment: One commenter stated that the Pearl River map turtle is not a separate species based on a publication by Praschag et al. (2017).

Our Response: The Pearl River map turtle was initially described as a new species based on mitochondrial DNA (mtDNA) sequences, significant carapace pattern variation, morphological differentiation, and

allopatric distributions between the Pearl River map turtle and the Pascagoula map turtle (Ennen et al. 2010, entire). For example, mtDNA sequences showed greater genetic differentiation between the Pearl River map turtle in the Pearl River and the Pascagoula map turtle in the Pascagoula River than mtDNA sequence differences between two other recognized, and reciprocally sympatric, species: ringed map turtle in the Pearl River and yellow-blotched map turtle in the Pascagoula River (Ennen et al. 2010, entire). However, a 2017 study, using mtDNA and 12 nuclear loci, determined that the Pearl River map turtle is not a separate species from the Pascagoula map turtle, and that the genus *Graptemys* is taxonomically over split (Praschag et al. 2017, entire). We considered this information and disregarded it due to the captive origin of the sampled turtles used (Praschag et al. 2017, p. 677), as well as the genetic analyses that were called into question (Thomson et al. 2018, p. 68). The most recent comprehensive genetic analysis (18 nuclear genes and 2 mtDNA sequences) that assessed wild *Graptemys* determined that the Pearl River map turtle is a valid species (Thomson et al. 2018, entire). Additionally, several other recent publications recognize the Pearl River map turtle as a separate species from the Pascagoula map turtle (Lindeman et al. 2020, entire; Selman and Lindeman 2020, entire; Vučenović and Lindeman 2021, entire; Selman 2020b, entire; Smith et al. 2020, entire).

(6) Comment: One commenter stated that, due to the difficulty of identifying the Pearl River map turtle, research conducted by college and graduate students on this species is not reliable and cannot be used to determine populations.

Our Response: A species expert stated that only 5 to 10 professionals can distinguish the difference among the megacephalic map turtles: Pearl River map turtle, Pascagoula map turtle, Alabama map turtle, Escambia map turtle, and Barbour's map turtle (Selman 2021, pers. comm.). There are only two native map turtle species within the Pearl River drainage: the megacephalic Pearl River map turtle and the microcephalic ringed map turtle. Unlike distinguishing among megacephalic map turtle species, these two species can be readily identified from one another by trained students utilizing morphological characteristics including proportional head size, head and carapace coloration and patterning, and the distinct rings found on the carapace of the ringed map turtle. Information used within the SSA was gathered by professionals from academia and State and Federal agencies, as well as from graduate students at local universities.

(7) Comment: One commenter raised concerns about the reliability of using data from a different species as a surrogate for Pearl River map turtle population estimates. Additionally, the commenter stated that differences in survey techniques for the Pearl River map turtle may have led to inaccurate population estimates.

Our Response: As population data were not available for the Pearl River map turtle, population abundance was estimated using a correction factor (based on previous mark-resight studies of the Pascagoula map turtle) to estimate the population abundance of the Pearl River map turtle from basking density surveys conducted within the Pearl River drainage (Lindeman et al. 2020, entire). The Service considers this to be the best available science as the Pascagoula map turtle is the sister species of the Pearl River map turtle (Thomson et al. 2018, entire; Ennen et al. 2010, entire) and both fill a similar role within their respective river drainages. Although survey techniques may have differed among the surveys conducted on the Pearl River map turtle, we used the best available science to assess population status (Lindeman et al. 2020, entire).

(8) Comment: One commenter noted the relatively recent discovery of tributary populations that consist of approximately one-third of the total Pearl River map turtle abundance in the river system. The commenter noted that the Service may not have taken potentially unknown tributary populations into consideration during the proposed listing, and that more Pearl River map turtles may reside within these tributaries than was assessed in the SSA.

Our Response: The most recently published range map provides the known range of the Pearl River map turtle within the Pearl River and its major tributaries and is based on thorough surveys of the river system (Lindeman et al. 2020, p. 176). This 2020 publication lists the tributaries throughout the drainage that have been surveyed, as well as those tributaries where no Pearl River map turtles were observed (Lindeman et al. 2020, Supplemental Material 2). This information represents the best available science and was incorporated into the SSA, version 1.2 (Service 2023, pp. 45–48).

(9) Comment: One commenter stated that the performed models provide insufficient information compared to actual water quality data and that research to determine water quality within the Pearl River would be key to developing a recovery plan. Additionally, the commenter stated that there is speculation regarding how land use factors into the proxy approach.

Our Response: Because no long-term (pre-Ross Barnett Reservoir) water quality data exist for the watershed, we used the best available science related to land use as a proxy for water quality. The 2016 National Land Cover Dataset (NLCD) includes different categorizations of agricultural use, urbanization, and forest cover. As stated in the SSA report, version 1.2 (Service 2023, p. 62), urbanization and agricultural land uses were considered as threats impacting water quality, and a land cover percentage was calculated for these threats by using the total land cover (including all NLCD land cover categories) within the buffer around each occupied stream.

(10) Comment: One commenter noted that the use of any sea-level rise (SLR) predictions as a threat to future conditions is questionable, as turtles will move in response to inundation, and that the Service needs to gather actual data in order to learn what is important to the survivability of the turtles.

Our Response: Sea-level rise is expected to impact one location inhabited by Pearl River map turtles within the West Pearl River and up to 10.8 river miles (rmi) (17.4 river kilometers (rkm)) of occupied habitat within the East Pearl River under the ''extreme'' SLR scenario (Service 2023 p. 87). These turtles may move upstream; however, SLR eliminates suitable habitat for the species in the Pearl River and lower sections of the Bogue Chitto River due to increased salinity. A 2009 study provides additional evidence that increased salinity can cause population declines in *Graptemys,* as seen by a 50 percent decline in population density of yellow-blotched map turtles (*G. flavimaculata*) within the lower Pascagoula River attributed to Hurricane Katrina storm surge (Selman et al. 2009, entire). We used the best available scientific data to inform how SLR would impact the Pearl River map turtle in the future.

(11) Comment: One commenter stated that the Service did not use the best available science related to predation and illegal collection of the Pearl River map turtle due to limited information known about these two potential threats. Additionally, the commenter stated that using the Pascagoula map turtle as a surrogate for the Pearl River

map turtle was not appropriate given their differing diets.

Our Response: We used the best available scientific and commercial data on predation, diet, and illegal collection of the Pearl River map turtle in the SSA report to inform the proposed, and this final, threatened species status determination for the Pearl River map turtle. Regarding predation of the Pearl River map turtle, we address the information in the SSA report, version 1.2 (Service 2023, pp. 28–29), as no other studies are available and no additional information regarding predation was provided during the November 23, 2021, proposed rule's comment period.

Regarding information about diet, some variation exists between the Pearl River map turtle and the Pascagoula map turtle's food preferences (McCoy et al. 2020, entire; Vučenović et al. 2021, entire); however, both species rely predominantly on aquatic invertebrates, which are affected similarly by water quality (Jones et al. 2021, p. 14; Lydeard et al. 2004, entire).

Although little information exists on the current collection and/or trade of the Pearl River map turtle, exploitation of the megacephalic map turtles (*Graptemys* spp.) for the pet trade has been documented (Lindeman 1998, p. 137; Cheung and Dudgeon 2006, p. 756; Service 2006, p. 2; Selman and Qualls 2007, pp. 32–34; Ennen et al. 2016, p. 094.6). Additionally, rare species are more sought after for the pet trade (Sung and Fong 2018, p. 221), potentially leading to higher exploitation of the species.

(12) Comment: One commenter stated that listing the Pascagoula map turtle, Alabama map turtle, Escambia map turtle, and Barbour's map turtle as threatened due to similarity of appearance does not create any additional protection or remove any additional threats to the Pearl River map turtle as it is the only one of the above-mentioned turtle species that occur in the Pearl River drainage.

Our Response: As stated in the proposed rule (86 FR 66624 at 66655; November 23, 2021), the slight morphological and color pattern differences within the megacephalic map turtle clade makes identification of species difficult when collection location is unknown (Selman 2019, pers. comm.). This difficulty can lead to an additional threat for Pearl River map turtles, with collected individuals being misrepresented as other members of the megacephalic map turtle clade (Pascagoula map turtle, Alabama map turtle, Escambia map turtle, or Barbour's map turtle) within the pet trade. Difficulty in identification and the additional threat of misrepresenting the Pearl River map turtle as another species meets the definition of similarity of appearance set forth in section 4(e) of the Act (16 U.S.C. 1533(e)) and explained in the proposed rule (86 FR 66624 at 66655; November 23, 2021) and this final rule.

(13) Comment: Six commenters expressed concern that the Service's description of the 4(d) rule's incidental take exception for construction, operation, and maintenance activities occurring near- and in-stream is too broad and should be more narrowly defined or removed.

Our Response: We agree that it is difficult to understand and identify specific situations for which the proposed exception for incidental take resulting from construction, operation, and maintenance activities would apply. Accordingly, as stated above under Summary of Changes from the Proposed Rule, we are not including this as an exception to the incidental take prohibitions in the 4(d) rule for the Pearl River map turtle because it is too vague and would have caused confusion with respect to requirements that must be met when undertaking these activities. Many activities occurring near or in a stream require permits or project review by Federal or State agencies. Therefore, we find that finalizing a 4(d) rule that included this exception to incidental take is not necessary and advisable for the conservation of the species.

(14) Comment: One commenter questioned how the Service will monitor maintenance dredging activities in order to ensure that these activities will not encroach upon suitable turtle habitat outside of the maintained waterway and how the Service will enforce any violations.

Our Response: Accordingly, for the reasons stated above under Summary of Changes from the Proposed Rule, we are not including the proposed exception for incidental take resulting from maintenance dredging activities from the 4(d) rule for the Pearl River map turtle. The proposed exception is too vague and would have caused confusion with respect to requirements that must be met when undertaking these activities. Many activities occurring near or in a stream require permits or project review by Federal or State agencies. Therefore, we find that finalizing a 4(d) rule that included this exception to incidental take is not necessary and advisable for the conservation of the species.

In terms of monitoring these types of activities, through section 7 consultation, maintenance dredging activities will be monitored so that these activities do not encroach upon suitable turtle habitat outside of the maintained waterway.

(15) Comment: Seven commenters expressed concern about adopting an incidental take exception for pesticide and herbicide use that follows chemical label and appropriate application rates. One commenter stated that exposure to pesticides and herbicides is harmful to turtle species and provided several citations to support the comment (such as, de Solla et al. 2014, entire; Kittle et al. 2018, entire).

Our Response: After review of the comments to the proposed rule and revisiting the best available scientific and commercial information, we are not including the pesticide and herbicide use exception from the incidental take prohibitions in the final 4(d) rule. In the proposed and this final rule, we describe the primary threats to the Pearl River map turtle as habitat degradation and loss, collection, and effects of climate change. In the preamble of our proposed 4(d) rule, we proposed an exception to incidental take prohibitions resulting from invasive species removal activities using pesticides and herbicides as these types of activities could be considered beneficial to the native ecosystem and are likely to improve habitat conditions for the species. However, as described in our SSA (Service 2023, pp. 22–42), invasive species were found to have minimal effects to the species. In addition, we do not have enough information about the types or amounts of pesticides that may be applied in areas where Pearl River map turtle occurs to be able assess the future impacts to the species.

The additional materials provided during the public comment period do not indicate Pearl River map turtle is impacted greatly from pesticides used to reduce impacts from nonnative, invasive species; however, the information provided does indicate impacts to other turtle species from pesticide use (de Solla et al. 2014, entire; Kittle et al. 2018, entire). As documented in other turtle species from the literature provided by the commenter, we assessed that there is the potential of indirect effects from pesticides on the Pearl River map turtle.

Further, we note that the Environmental Protection Agency (EPA) has not consulted on most pesticide registrations to date, so excepting take solely based on users complying with labels is not appropriate in this situation. Therefore, we find that finalizing a 4(d) rule that included this

exception to incidental take is not necessary and advisable for the conservation of the species.

(16) Comment: Two commenters stated that recreational and commercial fishing gears are a potential threat to the Pearl River map turtle and should not be excepted from incidental take. Additionally, the commenters stated that the Service should incorporate fisheries bycatch data into the SSA report.

Our Response: Few data are available to determine the extent that recreational and commercial fishing have on the Pearl River map turtle. Two recent studies determined that catch per unit effort (CPUE) in hoop nets set in preferred Pearl River map turtle habitat was very low, with 1 Pearl River map turtle captured every 59 to 72 trap nights, respectively (Pearson et al. 2020, pp. 55, 60; Haralson 2021, p. 65). These numbers suggest that commercial and/or recreational fishing may be a low risk to the Pearl River map turtle.

Recreational and commercial fishing activities are regulated by State natural resource and fish and game agencies, and these agencies issue permits for these activities in accordance with their regulations. The Service will coordinate with State agencies to better understand the impacts of permitted recreational and commercial fishing on Pearl River map turtles and may develop a coordinated plan based on the best available science to reduce fishing impacts through research and development on innovative fishing technologies and methodologies to reduce the risk of bycatch. Additionally, we will continue coordinating with State agencies on the development of public awareness programs regarding identification and conservation of the Pearl River map turtle.

(17) Comment: Nine commenters claimed that the Service lacks sufficient support for the not prudent finding for critical habitat regarding the increased threat of illegal collection by identifying areas where the turtles may be found. These comments also indicated that the species' location data and maps are already available to the public in published reports.

Our Response: In our November 23, 2021, proposed rule (86 FR 66624), we determined that designating critical habitat was not prudent for the Pearl River map turtle. Many species of turtles are affected by poaching worldwide because of the large demand from collectors. Although limited, poaching has been documented for map turtles. Reports and notes included with surveys going back several decades identify poaching as a threat. We based our determination on our finding that poaching may increase because the listing of the species would draw attention to their existence and rarity, possibly creating a greater demand among collectors. We postulated that the publication of maps in the **Federal Register** could facilitate poaching of the species by making it easier to find exact locations where the species is found.

After a thorough reevaluation of the publicly available information regarding the locations of Pearl River map turtles, we have determined that the current locations are currently available in sources readily accessed by the public. These include online conservation databases, scientific journals, and documents found on agency websites. We now acknowledge that publishing critical habitat maps would not provide many, if any, additional details helpful to locate the species, beyond what is already publicly available. In addition, because locations are largely available, the increased threat comes more from the attention drawn by listing the species, rather than the publication of maps depicting critical habitat. For this reason, we have reassessed our prudency determination that designating critical habitat would likely increase the threat of poaching. Consequently, we have determined that the designation of critical habitat is prudent for the Pearl River map turtle. We will publish a proposed rule to designate critical habitat for the Pearl River map turtle in the near future.

I. Final Listing Determination for the Pearl River Map Turtle

Background

The Pearl River map turtle (*Graptemys pearlensis*) is a freshwater turtle species belonging to the Emydidae family that includes terrapins, pond turtles, and marsh turtles. Turtles in the genus *Graptemys* are also known as map turtles for the intricate pattern on the carapace that often resembles a topographical map. The Pearl River map turtle is in the megacephalic (large-headed) clade as females grow proportionally larger heads and jaws than males as they age; the carapace length of adult females is over two times the length of adult males on average (Gibbons and Lovich 1990, pp. 2–3). The life history of the Pearl River map turtle can be described as the stages of egg, hatchling, juvenile, and adult. Typically, male map turtles mature in 2 to 3 years, while females mature much later, around 9 years of age (Lindeman 2013, p. 109; Vogt et al. 2019, pp. 557–558).

The species inhabits rivers and large creeks with sand and gravel bottoms in the Pearl River drainage from central Mississippi to the border of southern Mississippi and Louisiana. For the Pearl River map turtle to survive and reproduce, individuals need suitable habitat that supports essential life functions at all life stages. Several elements appear to be essential to the survival and reproduction of individuals: mainstem and tributary reaches within the Pearl River system that have sandbars, adequate flow, an adequate supply of invertebrate prey items including insects and mollusks (particularly freshwater mussels), and an abundance of emergent and floating basking structures of various sizes. The diet of the Pearl River map turtle varies between females and males. Mature females consume mostly Asian clams (*Corbicula fluminea*), while males and juveniles eat insects, with mature males specializing in caddisfly larvae and consuming more mollusks than juveniles (Vučenović and Lindeman 2021, entire; Service 2023, p. 11).

Pearl River map turtles are found in rivers and creeks with sand and gravel bottoms and dense accumulations of deadwood; this species has not been documented in oxbow lakes or other floodplain habitats. They are notably absent from lakes where their sympatric microcephalic species, the ringed map turtle (*Graptemys oculifera*), is present, but do occur at very low densities at the upstream reach of Ross Barnett Reservoir, an impoundment of the Pearl River (Lindeman 2013, p. 298; Selman and Jones 2017, entire). All life stages require adequate water quality within flowing river systems and are largely intolerant of brackish and saltwater environments (Selman and Qualls 2008, pp. 228–229; Lindeman 2013, pp. 396–397). The species requires semi-exposed structure for basking, such as emergent deadwood, which serves as thermoregulatory structure, as foraging structure for males and juveniles (Selman and Lindeman 2015, pp. 794–795), and as an overnight resting place for males and juveniles (Cagle 1952, p. 227).

The species also requires terrestrial nesting habitat where the females excavate nests and lay their eggs on sandbars, and occasionally steep cut-banks, along riverbanks during the late spring and early summer months. Hatchlings typically emerge from the nest at night and after an average of 69 days; the hatchling and small juvenile life stages depend on adequate abundance of invertebrate prey and emergent branches near the riverbank. A more thorough review of the taxonomy,

life history, and ecology of the Pearl River map turtle is presented in detail in the SSA report (Service 2023, pp. 5–19).

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. On April 5, 2024, 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 what criteria we apply when designating listed species' critical habitat (89 FR 24300). On the same day, the Service published a final rule revising our protections for endangered species and threatened species at 50 CFR 17 (89 FR 23919). These final rules are now in effect and are incorporated into the current regulations. Our analysis for this final decision applied our current regulations. Given that we proposed listing for the Pearl River map turtle under our prior regulations (revised in 2019), we have also undertaken an analysis of whether our decision would be different if we had continued to apply the 2019 regulations; we concluded that the decision would be the same. The analyses under both the regulations currently in effect and the 2019 regulations are available on *https://www.regulations.gov.* 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.

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, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; ''M-Opinion,'' available online at *https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf*). The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat-projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

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 listed as an endangered or threatened species under the Act. 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 Pearl River map turtle 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 individual 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 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. We use this information 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–R4–ES–2021–0097 on *https://www.regulations.gov.*

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. Additional details about the species' biology and threats can be found in the SSA report, version 1.2 (Service 2023, entire) and the proposed listing rule (86 FR 66624; November 23, 2021).

Species Needs

We assessed the best available information to identify the physical and biological needs to support individual fitness at all life stages for the Pearl River map turtle. Full descriptions of all needs are available in chapter 3 of the SSA report (Service 2023, pp. 20–21), which can be found in Docket No. FWS–R4–ES–2021–0097 on *https://www.regulations.gov.* Based upon the best available scientific and commercial information, and acknowledging existing ecological uncertainties, the resource and demographic needs for breeding, feeding, sheltering, and dispersal of the Pearl River map turtle are characterized as:

- For successful reproduction, the species requires patches of fine sand with sparse vegetation (typically sandbars, occasionally cutbanks) adjacent to adult habitat, adequate sand incubation temperatures to yield an appropriate hatchling sex ratio, and natural hydrologic regimes to prevent nest mortality due to out-of-season flooding.
- Hatchlings require an adequate abundance of invertebrate prey and of emergent branches and tangles near the riverbank for shelter and basking.
- Adult males require an adequate abundance of insect prey and emergent logs, branches, and tangles near the bank for basking and foraging.
- Adult females require an adequate abundance of native mussels or Asian clams; deeper, sand or gravel-bottomed stretches for foraging; and emergent logs and branches for basking.

Population needs include the same requirements as individuals (sandbars; natural hydrologic regimes; and an adequate supply of invertebrate prey items, basking structures, and sand, gravel, or rocky substrates) but must be met at a larger scale. Connectivity that facilitates genetic exchange and maintains high genetic diversity is needed; tributary and mainstem reaches with suitable habitat uninterrupted by impoundments must be sufficient in size to support a large enough population of individuals to avoid issues associated with small populations, such as inbreeding depression.

Threats

The following discussions include evaluations of three threats and associated factors that are affecting the Pearl River map turtle and its habitat: (1) habitat degradation or loss, (2) collection, and (3) climate change (Service 2023, chapter 4, pp. 22–42). In addition, potential impacts from disease and invasive species were evaluated but were found to have minimal effects on viability of the species based on current knowledge (Service 2023, pp. 22–42).

Habitat Degradation or Loss

Water Quality—Degradation of stream and wetland systems through reduced water quality and increased concentrations of contaminants can affect the occurrence and abundance of freshwater turtles (DeCatanzaro and Chow-Fraser 2010, p. 360). Infrastructure development increases the percentage of impervious surfaces, reducing and degrading terrestrial and aquatic habitats. Increased water volume and land-based contaminants (*e.g.,* heavy metals, pesticides, oils) flow into aquatic systems, modifying hydrologic and sediment regimes of rivers and wetlands (Walsh et al. 2005, entire). Contaminants in the aquatic environment can have both immediate and long-term negative impacts on species and ecosystems by degrading the water quality and causing direct and indirect effects to the species or its required resources (Service 2023, pp. 25–27).

Freshwater mussels and snails are important food sources for the Pearl River map turtle, and sedimentation and pollution can have adverse impacts on mollusk populations (Box and Mossa 1999, entire). Point source pollution can be generated from inadequately treated effluent from industrial plants, sanitary landfills, sewage treatment plants, active surface mining, drain fields from individual private homes, and others (Service 2000, pp. 14–15). Nonpoint source pollution may originate from agricultural activities, poultry and cattle feedlots, abandoned mine runoff, construction, silviculture, failing septic tanks, and contaminated runoff from urban areas (Deutsch et al. 1990, entire; Service 2000, pp. 14–15). These sources may contribute pollution to streams via sediments, heavy metals, fertilizers, herbicides, pesticides, animal wastes, septic tank and gray water leakage, and oils and greases. The contaminants likely have direct (*e.g.,* decreased survival or reproduction or both) and indirect (*e.g.,* loss, degradation, and fragmentation of habitat) effects. Additionally, water quality for the Pearl River map turtle is impacted by activities associated with four processes: channel and hydrology modifications and impoundments, agriculture, development (urbanization), and mining. These processes are discussed in more detail in the proposed listing rule (86 FR 66624 at 66632–66634; November 23, 2021).

Channel and Hydrological Modifications and Impoundments

Dredging and channelization have led to loss of aquatic habitat in the Southeast (Warren Jr. et al. 1997, unpaginated). Dredging and channelization projects are extensive throughout the region for flood control, navigation, sand and gravel mining, and conversion of wetlands into croplands (Neves et al. 1997, unpaginated; Herrig and Shute 2002, pp. 542–543). Many rivers are continually dredged to maintain a channel for shipping traffic. Dredging and channelization modify and destroy habitat for aquatic species by destabilizing the substrate, increasing erosion and siltation, removing woody debris, decreasing habitat heterogeneity, and stirring up contaminants, which settle onto the substrate (Williams et al. 1993, pp. 7–8; Buckner et al. 2002, entire; Bennett et al. 2008, pp. 467–468). Channelization can also lead to headcutting, which causes further erosion and sedimentation (Hartfield 1993, pp. 131–141). Dredging removes

woody debris, which provides cover and nest locations for many aquatic species (Bennett et al. 2008, pp. 467–468). Snags and logs are removed from some sites to facilitate boat navigation (Dundee and Rossman 1989, p. 187). Experiments with manual deposition of deadwood in stretches with less riparian forest have been suggested as potential habitat restoration measures (Lindeman 2019, p. 33).

Stream channelization, point-bar mining, and impoundments were identified as potential threats in a report issued prior to the Pascagoula map turtle and Pearl River map turtle being recognized as taxonomically distinct (Service 2006, p. 2). Channel modification is recognized as a cause of decline in the ringed map turtle, a sympatric endangered species (Lindeman 1998, p. 137). Considerably low densities of Pearl River map turtles were observed in the lower reaches of the Pearl River, where much channelization and flow diversion has occurred (Lindeman et al. 2020, pp. 178, 181).

Impoundment of rivers is a primary threat to aquatic species in the Southeast (Benz and Collins 1997, unpaginated; Buckner et al. 2002, entire). Dams modify habitat conditions and aquatic communities both upstream and downstream of an impoundment (Winston et al. 1991, pp. 103–104; Mulholland and Lenat 1992, pp. 193–231; Soballe et al. 1992, pp. 421–474). Upstream of dams, habitat is flooded, and in-channel conditions change from flowing to still water, with increased depth, decreased levels of dissolved oxygen, and increased sedimentation. Sedimentation alters substrate conditions by filling in interstitial spaces between rocks that provide habitat for many species (Neves et al. 1997, unpaginated). Downstream of dams, flow regime fluctuates with resulting fluctuations in water temperature and dissolved oxygen levels, the substrate is scoured, and downstream tributaries are eroded (Schuster 1997, unpaginated; Buckner et al. 2002, unpaginated). Negative ''tailwater'' effects on habitat can extend many kilometers downstream (Neves et al. 1997, unpaginated). Dams fragment habitat for aquatic species by blocking corridors for migration and dispersal, resulting in population geographic and genetic isolation and heightened susceptibility to extinction (Neves et al. 1997, unpaginated). Dams also preclude the ability of aquatic organisms to escape from polluted waters and accidental spills (Buckner et al. 2002, unpaginated).

Damming of streams and springs is extensive throughout the Southeast (Etnier 1997, unpaginated; Morse et al. 1997, unpaginated; Shute et al. 1997, unpaginated). Most Southeastern streams are impacted by impoundment (Shute et al. 1997, p. 458). Many streams have both small ponds in their headwaters and large reservoirs in their lower reaches. Small streams on private lands are regularly dammed to create ponds for cattle, irrigation, recreation, and fishing, with significant ecological effects due to the sheer abundance of these structures (Morse et al. 1997, unpaginated). Small headwater streams are increasingly being dammed in the Southeast to supply water for municipalities (Buckner et al. 2002, unpaginated), and many Southeastern springs have also been impounded (Etnier 1997, unpaginated). Dams are known to have caused the extirpation and extinction of many Southeastern species, and existing and proposed dams pose an ongoing threat to many aquatic species (Folkerts 1997, unpaginated; Neves et al. 1997, unpaginated; Service 2000, p. 15; Buckner et al. 2002, unpaginated).

On the Pearl River, Ross Barnett Reservoir was constructed between 1960 and 1963 and provides a water supply for the City of Jackson, Mississippi, and the associated area, as well as recreational opportunities on the 33,000-acre (ac) (13,355 hectares (ha)) lake and the 17,000 ac (6,880 ha) surrounding it (Pearl River Valley Water Management District 2020, entire). A total of 20.9 rmi (33.6 rkm) of the Pearl River that was previously suitable habitat is now submerged beneath the Ross Barnett Reservoir (Lindeman et al. 2020, p. 173). The Ross Barnett Reservoir has greatly reduced habitat suitability of five percent of the mainstem Pearl River by altering the lotic (flowing water) habitat preferred by Pearl River map turtles to lentic (lake) habitat and fragmented the contiguous habitat for the species. Low population densities of Pearl River map turtles have been observed upstream of the Ross Barnett Reservoir, possibly due to recreational boating and extended recreational foot traffic or camping on sandbars by reservoir visitors (Selman and Jones 2017, pp. 32–34). Between the late 1980s and early 2010s, notable population declines also have been observed in the stretch of the Pearl River downstream of the Ross Barnett Reservoir (north of Lakeland Drive), but the exact reason for the decline is unknown (Selman 2020b, p. 194). Additionally, plans for new reservoirs on the Pearl River both upstream and downstream of Jackson have been or are being considered (Lindeman 2013, pp. 202–203). Up to 170 individual Pearl River map turtles could be impacted by the construction of the One Lake Project, one of several proposed impoundments (Selman 2020b, entire).

Agriculture—Agricultural land uses occur across the Pearl River basin (Service 2023, pp. 52–57). Some agricultural practices degrade habitat by eroding stream banks, resulting in alterations to stream hydrology and geomorphology. Nutrients, bacteria, pesticides, and other organic compounds are generally found in higher concentrations in areas affected by agriculture than in forested areas. Contaminants associated with agriculture (*e.g.,* fertilizers, pesticides, herbicides, and animal waste) can cause degradation of water quality and habitats through instream oxygen deficiencies, excess nutrification, and excessive algal growths. These, in turn, alter the aquatic community composition, shifting food webs and stream productivity, forcing altered behaviors, and even having sublethal effects or outright killing individual aquatic organisms (Petersen et al. 1999, p. 6). These alterations likely have direct (*e.g.,* decreased survival or reproduction or both) and indirect (*e.g.,* loss, degradation, and fragmentation of habitat) effects on the Pearl River map turtle or its habitat.

Land conversion from agricultural development may also reduce the amount of adjacent riparian forest available to produce deadwood; in another megacephalic map turtle species (Barbour's map turtle), turtle abundance decreased in areas where adjacent riparian corridors had been disturbed by agriculture, while the abundance of the red-eared slider (*Trachemys scripta*), a cosmopolitan species, increased (Sterrett et al. 2011, entire).

Pesticide application and use of animal waste for soil amendment are becoming common in many regions and pose a threat to biotic diversity in freshwater systems. Over the past two decades, these practices have corresponded with marked declines in populations of fish and mussel species in the Upper Conasauga River watershed in Georgia and Tennessee (Freeman et al. 2017, p. 419) that are prey sources for the megacephalic Alabama map turtle. Nutrient enrichment of streams was widespread, with nitrate and phosphorus exceeding levels associated with eutrophication, and hormone concentrations in sediments were often above those shown to cause endocrine disruption in

fish, possibly reflecting widespread application of poultry litter and manure (Lasier et al. 2016, entire). Researchers postulate that species declines observed in the Conasauga watershed may be at least partially due to hormones, as well as excess nutrients and herbicide surfactants (Freeman et al. 2017, p. 429). Similar effects may be associated with these practices in the Pearl River watershed.

Development—The Pearl River map turtle's range includes areas of the Pearl River that are adjacent to several urban areas, including the Jackson, Mississippi, metropolitan area where urbanization is expected to increase, as well as other areas within the Pearl River basin that are expected to grow in the future, including the cities of Monticello and Columbia, Mississippi. Urbanization is a significant source of water quality degradation that can reduce the survival of aquatic organisms. Urban development can stress aquatic systems and affect the availability of prey items and suitable habitat for aquatic turtles. In addition, sources and risks of an acute or catastrophic contamination event, such as a leak from an underground storage tank or a hazardous materials spill on a highway or by train, increase as urbanization increases.

Mining—The rapid rise in urbanization and construction of large-scale infrastructure projects are driving increasing demands for construction materials such as sand and gravel. Rivers are a major source of sand and gravel because transport costs are low; river energy produces the gravel and sand, thus eliminating the cost of mining, grinding, and sorting rocks; and the material produced by rivers tends to consist of resilient minerals of angular shape that are preferred for construction (Koehnken et al. 2020, p. 363). Impacts of sand and gravel mining can be direct or indirect. Direct impacts include physical changes to the river system and the removal of gravel and floodplain habitats from the system. Indirect impacts include shifting of habitat types due to channel and sedimentation changes; changes in water quality, which alter the chemical and physical conditions of the system; and hydraulic changes that can impact movement of species and habitat availability, which is vital for supporting turtle nesting and basking activities.

Gravel mining is a major industry in southeastern Louisiana, particularly along the Bogue Chitto River, within the range of the Pearl River map turtle (Selman 2020a, p. 20). Instream and unpermitted point-bar mining was observed in the late 1990s and was the biggest concern for *Graptemys* species in the Bogue Chitto River (Shively 1999, pp. 10–11). Gravel mining is perhaps still the greatest threat to the Pearl River system in southeastern Louisiana, particularly in the Bogue Chitto floodplain where run-off and effluents would affect river stretches downstream of these point sources (Selman 2020a, p. 20). Gravel mining can degrade water quality, increase erosion, and ultimately impact movement and habitat quality for aquatic species such as the Pearl River map turtle (Koehnken et al. 2020, p. 363). A recent comparison of aerial imagery from the mid-1980s and late 1990s with images from 2019 revealed increases in the distribution and magnitude of gravel mines in the Bogue Chitto River system, and recent surveys have reported several areas where mining appears to have degraded water quality significantly (Selman 2020a, pp. 20–21, 40). Although Louisiana and Mississippi have reduced the number of gravel mining permits issued in those States, mining in the floodplain continues to be a significant threat to the Pearl River map turtle.

Collection

According to a species expert, collection of wild turtles in the Pearl River system is probably occurring, and similar to what has been observed in other States, these turtles are likely destined for the high-end turtle pet trade in China and possibly other Southeast Asian countries (Selman 2020a, p. 23). Information has been documented from three different local individuals, at three different locations, concerning turtle bycatch or harvest in local Louisiana waterways occupied by Pearl River map turtles (Selman 2020a, pp. 22–23). The specific species captured were not documented; however, it is likely that at least some of these turtles were Pearl River map turtles.

The Service manages information related to species exports in the Law Enforcement Management Information System (LEMIS). According to a LEMIS report from 2005 to 2022, more than 1.5 million turtles identified as *Graptemys* spp. or their parts were exported from the United States to 29 countries (Service 2023, appendix B). Collection is allowed in Mississippi with an appropriate license through the State; a person may possess and harvest from the wild no more than 10 non-game turtles per license year. No more than four can be of the same species or subspecies. It is illegal to harvest turtles between April 1 and June 30 (see title 40 of the Mississippi Administrative Code at part 5, rule 2.3 (''Regulations Regarding Non-game Wildlife in Need of Management'')). In Louisiana, a recreational basic fishing license is required but allows unlimited take of most turtle species, including the Pearl River map turtle; exceptions are that no turtle eggs or nesting turtles may be taken (Louisiana Department of Wildlife and Fisheries (LDWF) 2020a, pp. 50–51). A recreational gear license is also required for operating specified trap types; for example, a recreational gear license is required when operating five or fewer hoop nets, but operating more than five hoop nets requires a commercial fisherman license (see Louisiana Revised Statutes, title 56, chapter 1, parts VI and VII, for details on licensing requirements, trap types).

Climate Change

In the southeastern United States, climate change is expected to result in a high degree of variability in climate conditions with more frequent drought, more extreme heat (resulting in increases in air and water temperatures), increased heavy precipitation events (resulting in increased flooding), more intense storms (*e.g.,* increased frequency of major hurricanes), and rising sea level and accompanying storm surge (Intergovernmental Panel on Climate Change (IPCC) 2023, entire). Warming in the Southeast is expected to be greatest in the summer, which is predicted to increase drought frequency, while annual mean precipitation is expected to increase slightly, leading to increased flooding events (IPCC 2023, entire; Alder and Hostetler 2013, unpaginated).

The dual stressors of climate change and direct human impact have the potential to impact aquatic ecosystems by altering stream flows and nutrient cycles, eliminating habitats, and changing community structure (Moore et al. 1997, p. 942). Increased water temperatures and alterations in stream flow are the most likely climate change effects that will impact stream communities (Poff 1992, entire), and each of these variables is strongly influenced by land use patterns. Increased urbanization may lead to more impervious surfaces, increasing runoff and flashiness of stream flows (Nelson et al. 2009, pp. 156–159).

Increasing Temperatures—Climate change may affect the viability of the Pearl River map turtle through temperature-dependent sex determination (TSD) during embryo development within buried nests. In turtle species that exhibit TSD, increasing seasonal temperatures may result in skewed sex ratios among hatchlings. This could be an important factor as climate change drives

increasing temperatures. Since male map turtles develop at lower temperatures than females, rising temperatures during developmental periods may result in sex ratios that are increasingly female-biased; however, microevolution of TSD thermal sensitivity and the mother's ability for nest-site selection may partially mitigate the impact of increasing temperatures on sex determination of hatchlings (Refsnider et al. 2016, entire). There are approximately eight more nights per year with a temperature above 70 degrees Fahrenheit (21.1 degrees Celsius) in the southeastern United States, with an additional 30 days per year over 95 degrees Fahrenheit (37.8 degrees Celsius) projected into the future with an additional 3.6-degree Fahrenheit (2 degree Celsius) warming (Marvel et al. 2023, pp. 2–18, 2–24).

Drought—The Pearl River map turtle and its predominant prey species are riverine obligates that require adequate flow to complete their life cycles. Based on down-scaled climate models for the southeastern United States, the frequency, duration, and intensity of droughts are likely to increase in the future (Keellings and Engstrom 2019, pp. 4–6), limiting flow in the rivers and streams occupied by the species and its prey. Stream flow is strongly correlated with important physical and chemical parameters that limit the distribution and abundance of riverine species (Power et al. 1995, entire; Resh et al. 1988, pp. 438–439); as such, the invertebrate prey of the Pearl River map turtle may experience declines associated with the effects of droughts (Haag and Warren 2008, entire; Aspin et al. 2019, entire). Additionally, turtles may experience changes in sex ratio of offspring, growth, and behavior because of extreme or prolonged drought (Powell et al. 2023, entire).

Sea-level Rise—The rate of global SLR is accelerating and is currently estimated to be about 0.14 inches (in) (3.6 millimeters (mm)) per year (National Oceanic and Atmospheric Administration (NOAA) 2022, unpaginated). It is estimated that sea levels will rise at least 1 foot (ft) (0.3 meters (m)) above year 2000 levels by the century's end (NOAA 2022, unpaginated). However, some research suggests the magnitude may be far greater than previously predicted due to recent rapid ice loss from Greenland and Antarctica (Rignot and Kanagaratnam 2006, pp. 989–990). Accounting for this accelerated melting, sea level could rise upwards of 12 ft (3.7 m) higher in 2150 than it was in 2000 (NOAA 2022, unpaginated).

SLR is likely to impact downstream Pearl River map turtle populations directly by reducing the quality and quantity of available habitat through increased salinity of the freshwater system upstream from the Gulf of Mexico (Service 2023, pp. 86–90). SLR may also affect the salt marsh wetlands at the mouth of the Pearl River, deteriorating the protective effect of the marsh in reducing saltwater intrusion. Barrier islands off the coast may also be submerged, resulting in loss of the protections provided by the small land masses that buffer the effects of hurricanes and storms. Although some species of *Graptemys* appear to handle some salinity increases, there is evidence that the group is largely intolerant of brackish and saltwater environments (Selman and Qualls 2008, pp. 228–229; Selman et al. 2013, p. 1201; Lindeman 2013, pp. 396–397).

Hurricane Regime Changes; Increased Intensity and Frequency—Since 1996, the frequency of hurricane landfalls in the southeastern United States has increased, and that trend is predicted to continue for some years into the future (Goldenberg et al. 2001, p. 475; Emanuel 2005, entire; Webster et al. 2005, p. 1845). Increasing frequency of storms and subsequent storm surges, compounded with SLR, will likely exacerbate saltwater intrusion into the coastal river systems. Conditions that result from storm surge that correspond with high tides are amplified and change the salinity of waters ever farther upstream, negatively affecting freshwater species that are not tolerant of saline conditions, including map turtles.

Hurricane Regime Changes; Increased Precipitation and Flooding—While river flooding under natural hydrologic conditions is important for sandbar construction and deposition of basking structure (Dieter et al. 2014, pp. 112–117), an increase in hurricane frequency and stochastic catastrophic floods could cause an increase in nest mortality. Climate change will continue affecting the species into the future, with chronic and acute exposure to the resulting changes in its aquatic and terrestrial habitats over time.

Additional Stressors

Additional stressors that affect the Pearl River map turtle that are not well studied or considered major threats to the species' viability include disease, contaminants, and persecution by humans. Some of the contaminants include pesticides (*e.g.,* herbicides and insecticides) and heavy metals. The culmination of stress due to disease and chronic exposure to contaminants may exacerbate the effects of the other threats on individuals. Wanton shooting of turtles has been documented for *Graptemys* species and may impact populations (Lindeman 1998, p. 137; Service 2006, p. 2); however, this action often goes unreported and is thus difficult to study and/or quantify.

Conservation Efforts and Regulatory Mechanisms

Existing regulatory mechanisms that protect the Pearl River map turtle include Federal and State protections of the species and its habitat.

Federal

The Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*) regulates dredge and fill activities that would adversely affect wetlands. Such activities are commonly associated with dry land projects for development, flood control, and land clearing, as well as for water-dependent projects such as docks/marinas and maintenance of navigational channels. The U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) share the responsibility for implementing the permitting program under section 404 of the Clean Water Act. Permit review and issuance follows a process that encourages avoidance, minimizing and requiring mitigation for unavoidable impacts to the aquatic environment and habitats. This includes protecting the riverine habitat occupied by the Pearl River map turtle. This law has resulted in some enhancement of water quality and habitat for aquatic life, particularly by reducing point-source pollutants. The EPA's regulatory mechanisms have improved water quality within the Pearl River drainage, as evidenced by a resurgence of intolerant fishes (Wagner et al. 2018, p. 13). Because the Pearl River map turtle has a greater tolerance for variances in water quality compared to intolerant fishes, these regulatory mechanisms provide protection for the species and its habitat from the threat of water quality degradation; however, there are instances where sources exceed EPA thresholds and degrade water quality (Mississippi Department of Environmental Quality 2019, entire).

Additionally, Federal agencies are required to evaluate the effects of their discretionary actions on federally listed species and must consult with the Service if a project may affect a species listed under the Endangered Species Act. Such discretionary Federal actions within the Pearl River map turtle's habitat that may affect other listed species include: maintenance dredging for navigation in the lower Pearl River by the Corps and their issuance of

section 404 Clean Water Act permits; construction and maintenance of gas and oil pipelines and power line rights-of-way by the Federal Energy Regulatory Commission; EPA pesticide registration; construction and maintenance of roads or highways by the Federal Highway Administration; and funding of various projects administered by the U.S. Department of Agriculture's Natural Resources Conservation Service and the Federal Emergency Management Agency. Section 7 consultations on other federally listed aquatic species are known to frequently require and recommend Federal agencies implement conservation measures, best management practices, and other actions that may also minimize or eliminate potential harmful effects on the Pearl River map turtle and encourage best management practices for all aquatic species. Accordingly, requirements under section 7 of the Act may provide some protections indirectly to the Pearl River map turtle and its habitat.

National Wildlife Refuges

The National Wildlife Refuge System Administration Act (NWRAA; 16 U.S.C. 668dd *et seq.*) represents organic legislation that set up the administration of a national network of lands and water for the conservation, management, and restoration of fish, wildlife, and plant resources and their habitats for the benefit of the American people that is managed by the Service. Conservation-minded management of public lands allows for: (1) natural processes to operate freely, and thus changes to habitat occur due to current and future environmental conditions; (2) managing the use of resources and activities, which minimizes impacts; (3) preservation and restoration to maintain habitats; and (4) reduction of the adverse physical impacts from human use. Amendment of the NWRAA in 1997 (Pub. L. 105–57) required the refuge system to ensure that the biological integrity, diversity, and environmental health of refuges be maintained.

The Pearl River map turtle occurs on the Bogue Chitto National Wildlife Refuge within Pearl River County, Mississippi, and St. Tammany and Washington Parishes, Louisiana. A comprehensive conservation plan (CCP) has been developed to provide the framework of fish and wildlife management on the refuge (Service 2011, entire). Within the CCP, specific actions are described to protect the ringed map turtle that will also benefit the Pearl River map turtle. Actions include ongoing habitat management to provide downed woody debris for basking turtles and to maintain 330-ft (100.6-m) buffers along all named streams during forest habitat improvement and harvest to protect water quality in streams (Service 2011, pp. 21, 73, 89, 179).

National Forests

The National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) provides standards for National Forest management and planning to protect the designated forest lands while maintaining viable populations of existing native and desired nonnative vertebrate species. The 2012 Planning Rule (77 FR 21162; April 9, 2012) requires that the U.S. Forest Service develop land management plans for all units within the National Forest system. The National Forests in Mississippi have adopted, and in most cases exceeded, the best management practices (BMPs) established by the State of Mississippi (U.S. Forest Service 2014, p. 66) (see discussion below of State BMPs). These measures include practices such as establishing streamside buffer zones, restricting vegetation management in riparian zones, and employing erosion control measures. The Bienville National Forest has no known records for the Pearl River map turtle but contains tributaries that flow into the Pearl and Strong Rivers; thus, these practices may provide some protective measures for habitat occupied by the species downstream. The regulations and practices applied across the National Forests upstream from Pearl River map turtle habitat provide protections for the species' aquatic habitat and contribute to the conservation of the species.

Department of Defense Integrated Natural Resources Management Plans

The Sikes Act Improvement Act of 1997 (Pub. L. 105–85) led to Department of Defense guidance regarding development of integrated natural resources management plans (INRMPs) for promoting environmental conservation on military installations. The U.S. Navy operates the Stennis Western Maneuver Area located along the western edge of the National Aeronautics Space Administration Stennis Space Center and incorporated into the Stennis Space Center Buffer Zone. The Stennis Western Maneuver Area encompasses a 4-mi reach of the East Pearl River and a smaller eastern tributary named Mikes River in Hancock and Pearl River Counties, Mississippi (Buhlman 2014, p. 4). These river reaches are used by the U.S. Navy's Construction Battalion Center for riverboat warfare training. The western bank of the East Pearl River denotes the boundary of the U.S. Navy property and is managed as the Pearl River Wildlife Management Area by the State of Louisiana (see discussion below under *State Protections,* ''Louisiana''). Based on known records of the Pearl River map turtle, the U.S. Navy has developed an INRMP for the Stennis Western Maneuver Area (Buhlman 2014, pp. 11–12, 31–32; U.S. Navy 2011, entire). Measures within the INRMP are expected to protect listed species and the Pearl River map turtle, and include erosion and storm water control, floodplain management, invasive plant species management, and the use of an ecosystem approach to general fish and wildlife management (U.S. Navy 2011, pp. 4–4–4–20).

International Protections

Convention on International Trade in Endangered Species of Wild Fauna and Flora, Appendix III

All species of *Graptemys* were included on the Convention on International Trade in Endangered Species of Wild Fauna and Flora's (CITES) Appendix III in 2005 (CITES 2019, p. 43; 70 FR 74700, December 16, 2005). In 2023, all megacephalic map turtles, including the Pearl River map turtle, were upgraded to CITES Appendix II (CITES 2023, p. 46). Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless trade in them is strictly controlled. Appendix II also includes species that must be subject to regulation in order that trade in other CITES-listed species may be brought under effective control. Such ''look alike'' inclusions usually are necessary because of the difficulty inspectors have at ports of entry or exit in distinguishing one species from other species.

State Protections

Louisiana

The species has no State status under Louisiana regulations or law (LDWF 2021, entire). In Louisiana, a recreational basic fishing license is required but allows unlimited take of most species of turtles, including the Pearl River map turtle; exceptions are that no turtle eggs or nesting turtles may be taken (LDWF 2020, pp. 50–51). A recreational gear license is also required for operating specified trap types; for example, a recreational gear license is required when operating five or fewer hoop nets, but operating more than five hoop nets requires a commercial fisherman license (see Louisiana

Revised Statutes, title 56, chapter 1, parts VI and VII, for details on licensing requirements, trap types).

The Louisiana Scenic Rivers Act (1988; see Louisiana Revised Statutes, title 56, chapter 8, part II) was established as a regulatory program administered by the Louisiana Department of Wildlife and Fisheries (LDWF) through a system of regulations and permits. Rivers with the natural and scenic river designation that are occupied by the Pearl River map turtle include the Bogue Chitto River, Holmes Bayou, and West Pearl River in St. Tammany Parish and Pushepatapa Creek in Washington Parish (Louisiana Department of Agriculture and Forestry (LDAF) undated, p. 48). Certain actions that may negatively affect the Pearl River map turtle are either prohibited or require a permit on rivers included on the State's natural and scenic river list. Prohibited actions include channelization, channel realignment, clearing and snagging, impoundments, and commercial clearcutting within 100 ft (30.5 m) of the river low water mark (LDAF undated, p. 45). Permits are required for river crossing structures, bulkheads, land development adjacent to the river, and water withdrawals (LDAF undated, p. 45).

Additional protected areas of Pearl River map turtle habitat in Louisiana include the Pearl River Wildlife Management Area located in St. Tammany Parish and Bogue Chitto State Park located on the Bogue Chitto River in Washington Parish. A master plan for management of Wildlife Management Areas and State Refuges has been developed for Louisiana, which describes the role of these lands in improving wildlife populations and their habitats, including identifying and prioritizing issues threatening wildlife resources (LDWF and The Conservation Fund 2014, entire). Bogue Chitto State Park is managed by the Louisiana Department of Culture, Recreation, and Tourism for public use.

The Louisiana State Comprehensive Wildlife Action Plan was developed as a roadmap for nongame conservation in Louisiana (Holcomb et al. 2015, entire). The primary focus of the plan is the recovery of ''species of greatest conservation need'' (SGCN), those wildlife species in need of conservation action within Louisiana, which includes the Pearl River map turtle. Specific actions identified for the Pearl River map turtle include conducting ecological studies of the turtle's reproduction, nest success, and recruitment, as well as developing general population estimates via mark and recapture studies (Holcomb et al. 2015, p. 69). Recent Pearl River map turtle survey work in Louisiana was conducted using funding from the State Wildlife Grants (SWG) program (Selman 2020a, entire).

Gravel mining activities that occur within Louisiana require review and permits by Louisiana Department of Environmental Quality. Additional permits are required by LDWF for any mining activities that occur within designated scenic streams in Louisiana. The permit requirements ensure all projects are reviewed and approved by the State, thus ensuring oversight by the State and application of State laws.

Mississippi

The Pearl River map turtle is ranked as S2 (imperiled because of rarity or because of some factor making it very vulnerable to extinction) in Mississippi (Mississippi Museum of Natural Science (MMNS) 2015, p. 38) but is not listed on the Mississippi State list of protected species (Mississippi Natural Heritage Program 2015, entire). Protections under State law are limited to licensing restrictions for take for personal use of nongame species in need of management (which includes native species of turtles). A Mississippi resident is required to obtain one of three licenses for capture and possession of Pearl River map turtles (Mississippi Commission on Wildlife, Fisheries, and Parks, Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) 2016, pp. 3–5). The three licenses available for this purpose are a Sportsman License, an All-Game Hunting/Freshwater Fishing License, and a Small Game Hunting/Freshwater Fishing License. A nonresident would require a Nonresident All Game Hunting License. Restrictions on take for personal use include that no more than four turtles of any species or subspecies may be possessed or taken within a single year and that no turtles may be taken between April 1 and June 30 except by permit from the MDWFP (Mississippi Commission on Wildlife, Fisheries, and Parks, MDWFP 2016, pp. 3–5; see also title 40 of the Mississippi Administrative Code at part 5, rule 2.3 (''Regulations Regarding Non-game Wildlife in Need of Management'')). Additional restrictions apply to this species if removed from the wild; non-game wildlife or their parts taken from wild Mississippi populations may not be bought, possessed, transported, exported, sold, offered for sale, shipped, bartered, or exhibited for commercial purposes.

The Mississippi Comprehensive Wildlife Action Plan (MMNS 2015, entire) was developed to provide a guide for effective and efficient long-term conservation of biodiversity in Mississippi. As in Louisiana, the primary focus of the plan is on the recovery of species designated as SGCN, which includes the Pearl River map turtle. Specific actions identified for the Pearl River map turtle in Mississippi include planning and conducting status surveys for the species (MMNS 2015, p. 686).

Lands managed for wildlife by the State of Mississippi, which may provide habitat protections for the Pearl River map turtle, include the Old River Wildlife Management Area in Pearl River County and the Pearl River Wildlife Management Area in Madison County. In addition, a ringed map turtle sanctuary was designated in 1990 by the Pearl River Valley Water Supply District (District), north of the Ross Barnett Reservoir, Madison County, which also provides habitat for the Pearl River map turtle. One of the goals of management on Wildlife Management Areas in Mississippi is to improve wildlife populations and their habitats (MDWFP 2020, entire). The District sanctuary is approximately 12 river miles (rmi) (19.3 river kilometer (rkm)) north from Ratliff Ferry to Lowhead Dam on the Pearl River (Service 2010, p. 4). Within the sanctuary, the District maintains informational signs to facilitate public awareness of the sanctuary and of the importance of the area to the species and conducts channel maintenance by methods that do not hinder the propagation of the species. The District has recorded a notation on the deed of the property comprising the sanctuary area that will in perpetuity notify transferees that the sanctuary must be maintained in accordance with the stated provisions (Service 2010, p. 4).

Additionally, gravel mining activities that occur within Mississippi require review and permits by Mississippi Department of Environmental Quality. The permit requirements ensure all projects are reviewed and approved by the State, thus ensuring oversight by the State and application of State laws.

U.S. Fish and Wildlife State Wildlife Grants

In 2000, the State Wildlife Grants (SWG) Program was created through the Fiscal Year 2001 Interior Appropriations Act (Pub. L. 106–291) and provided funding to States for the development and implementation of programs for the benefit of wildlife and their habitat, including species that are not hunted or fished. The SWG Program is administered by the Service and allocates Federal funding for proactive nongame conservation measures

nationwide. Congress stipulated that each State fish and wildlife agency that wished to participate in the SWG program develop a Wildlife Action Plan to guide the use of SWG funds (see discussion above regarding the plans developed by the States of Louisiana and Mississippi). This program funds studies that assist conservation by providing needed information regarding the species or its habitat and has contributed to the conservation of the species by assessing the current status and range of the Pearl River map turtle.

Additional Conservation Measures—Forest Management Best Management Practices

Most of the land adjacent to the Pearl River and Bogue Chitto River in Louisiana and Mississippi is privately owned and much of it is managed for timber. Both States have developed voluntary best management practices (BMPs) for forestry activities conducted in their respective States with the intent to protect water quality and minimize the impacts to plants and wildlife. In addition, the forest industry has several forest certification programs, such as the Sustainable Forestry Initiative, which require participating landowners to meet or exceed State forestry BMPs. Silvicultural practices implemented with State-approved BMPs can reduce negative impacts to aquatic species, including turtles, through reductions in nonpoint source pollution, such as sedimentation. Although nonpoint source pollution is a localized threat to the Pearl River map turtle, it is less prevalent in areas where State-approved BMPs are used (Service 2023, pp. 41–42).

In Louisiana, BMPs include streamside management zones (SMZ) of 50 ft (15.24 m), measured from the top of the streambank, for streams less than 20 ft (6.1 m) wide during estimated normal flow, to a width of 100 ft (30.5 m) for streams more than 20 ft (6.1 m) wide (LDAF undated, p. 15). Guidance includes maintaining adequate forest canopy cover for normal water and shade conditions as well as an appropriate amount of residual cover to minimize soil erosion (LDAF undated, p. 14). An overall rate of 97.4 percent of 204 forestry operations surveyed by the LDAF in 2018 complied with the State's voluntary guidelines; compliance with guidelines in SMZs was 98.6 percent (LDAF 2018, entire).

The State of Mississippi has voluntary BMPs developed by the Mississippi Forestry Commission (MFC) (MFC 2008, entire). These BMPs include SMZs with the purpose of maintaining bank stability and enhancing wildlife habitat by leaving 50 percent crown cover during timber cuts (MFC 2008, p. 6). The width of SMZs is based on slope, with a minimum SMZ width of 30 ft (9.14 m) extending to 60 ft (18.3 m) at sites with more than 40 percent slope (MFC 2008, p. 6). The most recent monitoring survey of 174 Mississippi forestry sites indicated that 95 percent of applicable sites were implemented in accordance with the 2008 guidelines (MFC 2019, p. 6).

Overall, voluntary BMPs related to forest management activities conducted on private lands throughout the riparian corridor of the Pearl River drainage have provided a significant foothold for Pearl River map turtle conservation. As a result of high BMP compliance in these specific areas, nonpoint source pollution associated with forest management practices is not a major contributor to impacts on the species.

Cumulative/Synergistic Effects

The Pearl River map turtle uses both aquatic and terrestrial habitats that may be affected by activities along the Pearl River drainage. Ongoing and future stressors that may contribute to cumulative effects include habitat fragmentation, genetic isolation, invasive species, disease, climate change, and impacts from increased human interactions due to human population increases. When considering the compounding and synergistic effects acting on the species, the resiliency of the analysis units will be further reduced in the future.

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.

Current Condition

The current condition of the Pearl River map turtle is described in terms of population resiliency, redundancy, and representation across the species. The analysis of these conservation principles to understand the species' current viability is described in more detail in the Pearl River map turtle SSA report (Service 2023, pp. 43–69) and in the proposed listing rule (86 FR 66624; November 23, 2021).

Resiliency

In order to analyze the species' resiliency, we delineated the species into five resiliency units that represent groups of interbreeding individuals: Upper Pearl, Middle Pearl-Silver, Middle Pearl-Strong, Bogue Chitto, and Lower Pearl (figure 1, below). Historically, the majority of the species' range was likely a single, connected biological population prior to the fragmentation due to the construction of the Ross Barnett Reservoir; however, we delineated five different units to more accurately describe trends in resiliency, forecast future resiliency, and capture differences in stressors between the units.

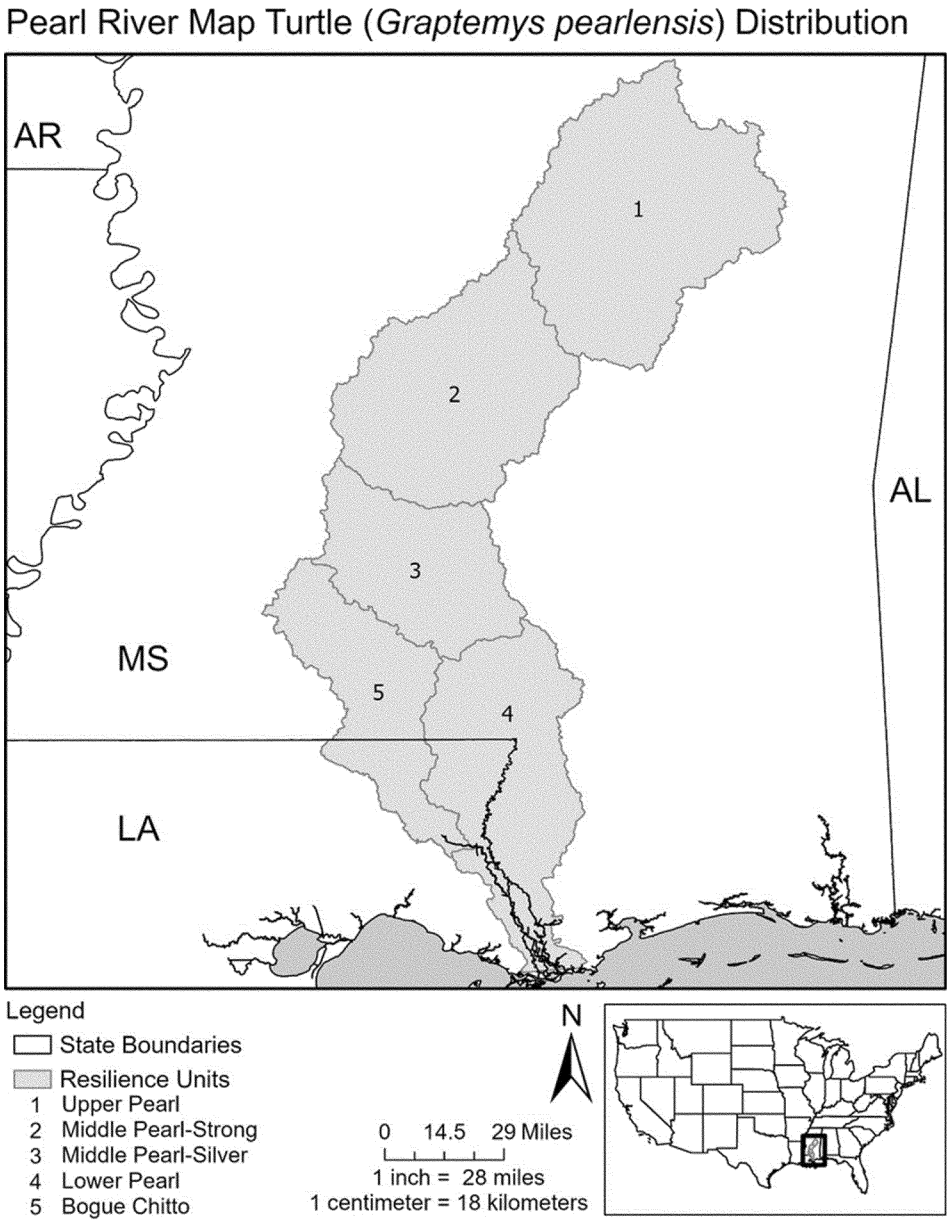

Figure 1. Pearl River map turtle range map distributed across the Pearl River basin. A total of one population within five resilience units (HUC–8 watersheds) is currently considered extant.

The factors used to assess current resiliency of Pearl River map turtle resilience units include two population factors and four habitat factors. The population factors we assessed were (1) occupancy in mainstems and tributaries and (2) density and abundance. The habitat factors we assessed were (a) water quality, (b) forested riparian cover, (c) protected land, and (d) presence of channelization/reservoirs/gravel mining. These population and habitat factors are collectively described as resiliency factors.

For a given population to be resilient, the species must be present in the mainstem and a high proportion of tributaries within a unit, as well as having moderate to high population densities. Furthermore, although relative abundance of the Pearl River map turtle is typically much higher within mainstem reaches, presence of the species within tributary systems can contribute to resiliency by increasing the number of occupied miles of stream within a given unit, and also by providing refugia from catastrophic events, such as chemical spills or flooding. In order to assess occupied tributaries, we used survey data collected from 2005–2020. These data were collected by several different observers through a variety of survey types, including bridge surveys, basking surveys, and live trapping.

The influence of stochastic variation in demographic (reproductive and mortality) rates is much higher for small populations than large ones. For small populations, this stochastic variation in demographic rates can lead to a greater probability that fluctuations will lead to extinction. There are also genetic

concerns with small populations, including reduced availability of compatible mates, genetic drift, and low genetic diversity or inbreeding depression. Small populations of Pearl River map turtles inherently have low resilience, leaving them particularly vulnerable to stochastic events. In 2020, the global population was estimated to be 21,841 individuals, with 61 percent occurring on mainstem reaches, 34 percent occurring in 4 large tributaries, and the remaining 5 percent spread amongst other smaller tributaries (Lindeman et al. 2020, p. 174). Based on basking density surveys and on results of point counts, each river drainage was divided into river reaches that were categorized as high, moderate, low, and very low density (Service 2023, p. 50).

After determining the occupied status of mainstem reaches and tributaries, and the density classes of the mainstem reaches and tributaries, the population factor score for each resilience unit resulted in three moderate (Bogue Chitto, Middle Pearl-Strong, and Upper Pearl) and two low (Lower Pearl and Middle-Pearl Silver) conditions. The overall habitat factor score for each resiliency unit resulted in low condition for two units (Bogue Chitto and Lower Pearl) and moderate condition for three units (Middle Pearl-Silver, Middle Pearl-Strong, and Upper Pearl). Additional details and methodologies for determining each habitat condition score are described in the SSA report (Service 2023, pp. 51–64).

After evaluating the population and habitat factors together, we determined the overall current resiliency of each unit: two units have low resiliency (Middle Pearl-Silver and Lower Pearl), and three units have moderate resiliency (Bogue Chitto, Middle Pearl-Strong, and Upper Pearl) (table 1, below). The Lower Pearl unit seems particularly vulnerable, as both the population and habitat composite scores were low. The Lower Pearl has significant channelization issues, low amounts of protected land, and a low density of individual turtles, all of which are driving the low resilience of this unit. Although the Middle Pearl-Silver unit scored moderate for overall habitat score, the low population score (mainly a function of the lack of occupied tributaries) is driving the low resilience of this unit. Additional details and methodologies for determining the overall current resiliency of each unit are described in the SSA report (Service 2023, pp. 45–66).

When looking at the three units with moderate resiliency, the Middle Pearl-Strong and Bogue Chitto units appear to be vulnerable to further decreases in resiliency. For the Bogue Chitto unit, moderate densities of Pearl River map turtle populations are present within 40 percent of surveyed (occupied) tributaries, although low amounts of protected land and substantial gravel mining activity make this unit vulnerable. For the Middle Pearl-Strong, moderate population densities are present within 50 percent of surveyed tributaries, but development in the Jackson area and the presence of the Ross Barnett Reservoir make this unit vulnerable. If development increases substantially in this unit, or if proposed reservoir projects (One Lake) move forward, it is likely there would be population-level impacts that would drop the resiliency to low in the future conditions.

TABLE 1—CURRENT RESILIENCY OF PEARL RIVER MAP TURTLE UNITS BASED ON COMPOSITE HABITAT AND POPULATION FACTORS

Resiliency unit	Composite habitat score	Composite population score	Current resilience
Bogue Chitto	Low	Moderate	Moderate.
Lower Pearl	Low	Low	Low.
Middle Pearl-Silver	Moderate	Low	Low.
Middle Pearl-Strong	Moderate	Moderate	Moderate.
Upper Pearl	Moderate	Moderate	Moderate.

Redundancy

Redundancy refers to the ability of a species to withstand catastrophic events and is measured by the amount and distribution of sufficiently resilient populations across the species' range. Catastrophic events that could severely impact or extirpate entire Pearl River map turtle units include chemical spills, changes in upstream land use that alter stream characteristics and water quality downstream, dam construction with a reservoir drowning lotic river habitat and further fragmenting contiguous aquatic habitat, and potential effects of climate change such as rising temperatures and SLR.

The Middle Pearl-Silver unit is the most vulnerable to a catastrophic land-based spill due to transportation via train or automobile, and there are no known occupied tributaries at this time. However, across the range of the Pearl River map turtle, extant units of the species are distributed relatively widely, and several of those units have moderate resilience; thus, it is highly unlikely that a catastrophic event would impact the entire species' range. As the species occurs in multiple tributaries and all units, the Pearl River map turtle has a high potential of withstanding catastrophic events; therefore, the species exhibits a moderate-high degree of redundancy.

Representation

Representation refers to the breadth of genetic and environmental diversity within and among populations that allows for adaptive capacity of the species; this influences the ability of a species to adapt to changing environmental conditions over time. Differences in life-history traits, habitat features, and/or genetics across a species' range often aid in the delineation of representative units, which are used to assess species representation. The species is described as consisting of a single representative unit due to the lack of genetic structuring across the range; the limited genetic diversity may reduce the ability of the species to adapt to changing conditions (Pearson et al. 2020, entire). However, there are habitat differences for the Strong River and we recognize the potential importance of that system to the adaptive capacity of the species.

In summary, the current condition of the Pearl River map turtle is described using resiliency, redundancy, and representation. We assessed current resiliency as a function of two population factors (occupied tributaries and density) and four habitat factors (water quality, protected areas, deadwood abundance, and reservoirs/channelization) for each resiliency unit. Based on these factors, there are two units with low resiliency (Lower Pearl and Middle Pearl-Silver) and three units with moderate resiliency (Upper Pearl, Middle Pearl-Strong, and Bogue Chitto); no units were assessed as highly resilient. Because three of the five units are classified as moderately resilient,

and those units are distributed relatively widely, the Pearl River map turtle exhibits a moderate-high degree of redundancy (*i.e.,* it has a high potential of withstanding catastrophic events). Even with the unique habitat in the Strong River, we recognize only a single representative unit based on low genetic variation. The wide distribution within the five resilience units across the range provides sufficient adaptive capacity to adapt to changing environmental conditions.

Future Conditions

The viability of the Pearl River map turtle in the future is based on the threats that are acting on the species and the species' response to those threats in light of conservation efforts or other actions that may benefit the species or its habitat. We consider plausible scenarios using the best available scientific and commercial data for developing each scenario. We describe the future conditions of the species by forecasting the species' response to plausible future scenarios of varying environmental conditions and ameliorating conservation efforts, and then considered the impact these influences could have on the viability of the Pearl River map turtle. The scenarios described in the SSA report represent six plausible future conditions for the species (Service 2023, pp. 74–76). The scenarios include land use changes and SLR in a matrix to determine the effects of both factors to each unit. We then considered future water engineering projects for each matrix and determined the resiliency of each unit based on whether the project is installed or not. All six scenarios were projected out to two different time steps: 2040 (~20 years) and 2070 (~50 years). These timeframes are based on input from species experts, generation time for the species, and the confidence in predicting patterns of urbanization and agriculture. Confidence in how these land uses will interact with the species and its habitat diminishes beyond 50 years. The scenarios only considered threats for which there were available data. We assume that other threats will continue, such as collection from the wild and impacts from climate change.

We continue to apply the concepts of resiliency, redundancy, and representation to the future scenarios to describe possible future conditions of the Pearl River map turtle and understand the overall future viability of the species. When assessing the future, viability is not a specific state, but rather a continuous measure of the likelihood that the species will sustain populations in the wild over time.

Using the best available information regarding the factors influencing the species' viability in the future, we considered the following factors to inform the future resiliency of the five units: (1) changes in land use/water quality, (2) SLR, and (3) future water engineering projects.

We considered projected land-use changes related to agricultural and developed land in assessing future resilience of each unit for the Pearl River map turtle. We consider these land use classes as surrogates for potential changes in water quality, a primary risk factor for the species. We used data available at the resiliency unit scale from the U.S. Geological Survey (USGS) Forecasting Scenarios of Land-use Change (FORE–SCE) modelling framework (USGS 2017, unpaginated) to characterize nonpoint source pollution (*i.e.,* from development and agriculture). The FORE–SCE model provides spatially explicit historical, current, and future projections of land use and land cover. Four scenarios were modeled, corresponding to four major scenario storylines from the Intergovernmental Panel on Climate Change (IPCC) Special Report on Emissions Scenarios (SRES) (IPCC 2000, pp. 4–5). The global IPCC SRES (A1B, A2, B1, and B2 scenarios) were downscaled to ecoregions in the conterminous United States with the USGS FORE–SCE model used to produce landscape projections consistent with the IPCC SRES. The land-use scenarios focused on socioeconomic impacts on anthropogenic land use (*e.g.,* demographics, energy use, agricultural economics, and other socioeconomic considerations). For the A1B, A2, B1, and B2 scenarios, we used two time steps (2040 and 2070), with the A2-Extreme-One Lake project scenarios representing the highest threat scenario, the B1-Intermediate High-No One Lake project scenario the lowest threat scenario, and the other four scenarios representing moderate threat scenarios.

Sea-level rise impacts the future resiliency of Pearl River map turtles directly through loss/degradation of habitat. To estimate habitat loss/degradation due to inundation from SLR, we used National Oceanic and Atmospheric Administration (NOAA) shapefiles available at their online SLR viewer (NOAA 2020, unpaginated). We used projections corresponding to the representative concentration pathways (RCP) of RCP6 (intermediate-high) and RCP8.5 (extreme). We found the average SLR estimate for the intermediate-high and extreme NOAA scenarios to project estimated habitat loss at years 2040 and 2070. If SLR estimates overlap with known occupied portions of the river system, we assume that area is no longer suitable or occupiable; thus, resiliency would decrease.

SLR is occurring, but the rate at which it continues is dependent on the different atmospheric emissions scenarios. In the next 20 years, sea levels are estimated to rise 1 ft (0.30 m) to 2 ft (0.61 m), and by 2070, a 3-ft (0.91-m) to 5-ft (1.52-m) rise in sea levels is projected for the lower and higher emissions scenarios. The effects of SLR and saltwater intrusion are exacerbated with storm surge and high tides. Pulses of saltwater from increased storm frequency and intensity, coupled with SLR, can have direct effects on freshwater habitats and species that are not salt-tolerant.

As noted above, water engineering projects that convert free-flowing rivers to lentic habitats negatively affect the species. The proposed One Lake project proposes a new dam and commercial development area 9 miles (mi) (14.5 kilometer (km)) south of the current Ross Barnett Reservoir Dam near Interstate 20. However, the One Lake project is still being debated, and there is uncertainty as to whether the project will proceed. Because of this uncertainty, we have created two scenarios based around the proposed One Lake project: One in which the project occurs, and one in which it does not, within the next 50 years. Because of the potential for negative impacts on Pearl River map turtles from the proposed One Lake project, we assume a decrease in resiliency of the Middle Pearl-Strong unit if the project moves forward.

We do not assess population factors (occupancy of tributaries and density) in our future conditions analysis because the data are not comparable through time or space; the baseline data come from recent surveys, and no historical data are available to allow for analyses of trends or comparisons over time. Additionally, we assume the amount of protected land within each unit stays the same within our projection timeframes, although it is possible that additional land could be converted to a protected status or lands could degrade over time. Rather than attempting to categorize future resiliency as was done in the current condition analysis, we indicate a magnitude and direction of anticipated change in resiliency of Pearl River map turtle units.

Scenario Descriptions

Scenarios were built around three factors: land use, SLR, and water

engineering projects. To present plausible future conditions for the species and to assess the viability for the Pearl River map turtle in response to those conditions, we projected two land use and two SLR scenarios out to the years 2040 (~20 years) and 2070 (~50 years). Additional details regarding the scenario descriptions can be found in the SSA report (Service 2023, pp. 73–75) and the proposed listing rule (86 FR 66624; November 23, 2021).

Future Resiliency

Bogue Chitto—Under all scenarios, development remains low across the Bogue Chitto unit. Agriculture is high across the entire unit in all scenarios, except for the B1 scenario in the year 2070, where agriculture is moderate. Forested cover is relatively high across the unit under all scenarios; thus, deadwood does not appear to be a limiting factor. There are no predicted SLR impacts or water engineering projects directly affecting this unit. There is uncertainty regarding future impacts related to mining activity, which has the potential to further reduce resiliency. However, the effects of past and current mining activities have already altered the Bogue Chitto by degrading both habitat and water quality (Service 2023, p. 31). It is likely that this unit maintains a moderate resilience over the next 50 years according to all future scenarios.

Lower Pearl—SLR impacts this unit under all scenarios, although the impacts of inundation are localized to the southern portion of the unit, mainly in the East Pearl River. Under the A2 scenarios, a few streams are impacted by high levels of development, although most of the unit has low levels of development; under the B1 scenarios, development is low across the entire unit. Agriculture is predicted to be high across the unit under the A2 scenarios, and moderate across the unit under the B1 scenarios. There are no predicted water engineering projects, and forested cover is anticipated to remain relatively high. Current resiliency for this unit is low, and resiliency is anticipated to decline across all scenarios, with the A2 scenarios with extreme SLR associated with the most substantial decreases.

Middle Pearl-Silver—Development remains low across the unit under all scenarios at both time steps. Agriculture increases to high under the A2 scenarios and stays moderate under the B1 scenarios. There are no predicted SLR effects or water engineering project impacts on this unit. Forested cover is relatively high across the unit under all scenarios and is predicted to increase under the B1 scenarios; thus, deadwood does not appear to be a limiting factor. Current resilience for this unit is low, and based on the factors assessed, it is likely there will not be a decline in resilience in the future (Service 2023, p. 93).

Middle Pearl-Strong—Development is substantial in a few areas within this unit, particularly around Jackson, Mississippi. The current resiliency for this unit is moderate, and the future resiliency is likely to decline due to increased agriculture and decreased forest cover within the unit (without One Lake). Agriculture is predicted to be high across the unit under all scenarios. If the One Lake project moves forward, there is a substantial decrease in resiliency predicted within and adjacent to the project area, as several streams are predicted to lose a substantial amount of forested cover. However, these impacts from the One Lake project will not extend to the Strong River as this tributary connects with the Pearl River downstream of the proposed project area. No SLR impacts are predicted in this unit. The Middle Pearl-Strong unit is perhaps the most vulnerable unit, as development, agriculture, and water engineering projects are projected to impact this unit and lead to future declines in resiliency.

Upper Pearl—The habitat associated with this unit provides conditions to potentially support a stronghold for the species because it has the largest total area of protected lands compared to the other four units (Service 2023, p. 61). Development remains low across the entire unit under all scenarios. Agriculture is high across the entire unit in all scenarios, except for the B1 scenario in the year 2070, where agriculture is moderate. Forested cover is relatively high across the unit under all scenarios; thus, deadwood does not appear to be a limiting factor. There are no predicted SLR or water engineering project impacts in this unit. The Upper Pearl unit will remain in the moderate category over the next 50 years, based on the factors assessed; however, this population may experience genetic drift over time due to isolation caused by habitat fragmentation from the existing (Ross Barnett) and planned (One Lake) reservoirs in the adjacent (downstream) unit. This will likely result in a decline in resiliency due to a loss of connectivity with the rest of the turtle's range.

Future Redundancy

Although the scenarios do not project extirpation in any of the units, we do anticipate resiliency to decline in four units; however, only the Middle Pearl-Strong unit will be downgraded from moderate to low resiliency under all scenarios in which the One Lake project is built. All other units will stay within the same (*i.e.,* current) resiliency category but will decline in resiliency within their respective categories. For example, the Lower Pearl unit will be impacted by SLR under all scenarios, and this is compounded by projected increases in both development and agriculture, but resiliency is expected to remain low. Only the Middle Pearl-Silver unit will not show any decline in resiliency into the future. Because extant units of the species are predicted to be distributed relatively widely, it is highly unlikely that a catastrophic event would impact the entire species' range; thus, the Pearl River map turtle is predicted to exhibit a moderate degree of redundancy in the future under all scenarios.

Future Representation

As described above under the current conditions, the species is a single representative unit regarding genetic variation. Relatively unique habitat conditions in the Strong River may influence the species' adaptive capacity and its overall representation. When looking at projections of threats within the Strong River, development is projected to remain low. In the A2 climate scenarios, agriculture increases from moderate to high; in the B1 climate scenarios, agriculture stays moderate. Also, forested cover within the riparian zone of the Strong River remains relatively high (68–83 percent), although it does drop across all climate scenarios from the current condition (92 percent). SLR does not impact this river in any of our scenarios, as the Strong River is far enough inland to avoid the effects of inundation. Finally, the One Lake project is not anticipated to directly impact the Strong River due to the location of the project (*i.e.,* mainstem Pearl River). Given this information, although the resiliency of the Strong River might decrease slightly due to land use projections, it is likely the Strong River will support a moderate density of individual turtles, and thus contribute to representation through maintenance of potential genetic diversity based on unique habitat features.

It is noteworthy that a recent genetics study has revealed that genetic diversity is lower in Pearl River map turtles compared to the closely related congener, Pascagoula map turtles (Pearson et al. 2020, pp. 11–12). Declining populations generally have reduced genetic diversity, which can potentially elevate the risk of extinction by reducing a species' ability and

potential to adapt to environmental changes (Spielman et al. 2004, entire). Genetic bottlenecks and low overall genetic diversity are more of a concern for populations that become geographically isolated by physical barriers that inhibit connectivity. Although no documented genetic differentiation has occurred, limited gene flow and genetic isolation of Pearl River map turtle populations upstream and downstream of the Ross Barnett Reservoir is expected to occur over future generations.

Determination of Pearl River Map Turtle'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 in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species 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 endangered species or 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

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we determined that the species currently has sufficient resiliency, redundancy, and representation contributing to its overall viability across its range. Even though the species is described as a single population, we assessed its viability by evaluating the condition of the Pearl River map turtle in five different resiliency units. This assessment indicated that the current condition of all units is below optimal or high resiliency, with three units having moderate resiliency and the remaining two units having low resiliency. There are no units within the range that demonstrate high resiliency. Despite the moderate and low conditions of all units, the species still occupies all five units. Current threats to the species include habitat degradation or loss (degraded water quality, channel and hydrologic modifications/impoundments, agricultural runoff, mining, and development), collection for the pet trade, and effects of climate change (increasing temperatures, drought, sea-level rise, hurricane regime changes, and increased seasonal precipitation).

The Ross Barnett Reservoir was completed in 1963 and has reduced the amount of available habitat for the species and fragmented contiguous suitable habitat. Pearl River map turtles prefer flowing water in rivers and creeks. Indirect effects from the reservoir are associated with recreational use from boat traffic and foot traffic from day visitors and campers. Declines in Pearl River map turtles have been documented both upstream (lower density) and downstream (population declines) from the reservoir (Selman and Jones 2017, pp. 32–34). A total of 20.9 rmi (33.6 rkm) of the Pearl River is submerged beneath the Ross Barnett Reservoir and is no longer suitable for the Pearl River map turtle. This reservoir is currently affecting the Middle Pearl-Strong unit and the Upper Pearl unit, reducing the suitable habitat of 5 percent of the mainstem Pearl River by altering the lotic (flowing water) habitat preferred by Pearl River map turtles to lentic (lake) habitat. The reservoir reduces the resiliency and overall condition of these affected units.

Despite the effects of the existing reservoir on the Upper Pearl and Middle Pearl-Strong resilience units, sufficient habitat remains to provide adequate resiliency of these units to contribute to the viability of the species. The effects from the reservoir may continue affecting the species in the future as the turtles in the Upper Pearl unit (above the reservoir) become more isolated over time; however, there is currently adequate resiliency.

In terms of redundancy and the ability of the species to respond to catastrophic events, the species currently has enough redundancy across the five resilience units to protect it from a catastrophe such as a large hurricane or oil spill. The Middle Pearl-Silver and Middle Pearl-Strong units are particularly vulnerable to a potential spill from railways and transportation corridors that are near or adjacent to habitat occupied by Pearl River map turtles. The Lower Pearl unit is vulnerable to the effects from hurricanes as it is in close proximity to the Gulf of Mexico. However, because the species is a single population distributed across five resilience units encompassing 795.1 rmi (1279.6 rkm), it is buffered against catastrophic events such as these. The overall current condition of the species exhibits moderate-high redundancy, as the species is still widespread across its range in all resilience units across the single representative unit. Thus, after assessing the best available information, we conclude that the Pearl River map turtle is not currently in danger of extinction throughout all of its range.

A threatened species, as defined by the Act, is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Because the species is not currently in danger of extinction (*i.e.,* endangered) throughout its entire range, we evaluated the viability of the species over the foreseeable future considering the condition of the species in relation to its resiliency, redundancy, and representation. We analyzed future conditions (2040 and 2070) based on input from species experts, generation time for the species, and the confidence in predicting patterns of urbanization and agriculture, enabling us to make reasonably reliable predictions about the threats and the species' response to these threats over time.

The threats included in the future scenarios are projected to negatively affect the Pearl River map turtle and result in a decline of resiliency throughout four (Bogue Chitto, Lower Pearl, Middle Pearl-Strong, and Upper Pearl) of the five resilience units (Service 2023, pp. 70–105). While the Middle Pearl-Silver unit is not expected to see major declines in resiliency, its current resiliency is low and is anticipated to remain low in the future projections. None of the resilience units will improve from current conditions to provide high resiliency; three units are currently in moderate condition, but resiliency within these conditions decline in the future scenarios. Three resilience units may have additional stressors including isolation for the Upper Pearl, compounded by the addition of another planned reservoir for the Middle Pearl-Strong unit, and gravel mining for the Bogue Chitto unit. These threats will likely cause a decline in the amount of available suitable habitat, thereby affecting the future resiliency; however, the development of the reservoir and future sand and gravel mining activities are uncertain. Two of the resilience units are in low condition and are expected to remain in low condition in the future (Lower Pearl and Middle Pearl-Silver), with the southernmost unit (Lower Pearl) facing threats from SLR. The low genetic variability of Pearl River map turtles

may result in low adaptive capacity (the potential to adapt) to environmental or habitat changes within the units. More than half of the population inhabits the main stem river, which is subject to more catastrophic events (*e.g.,* an oil spill). These point source pollutants would flow downstream below the point of contamination, with greater impacts occurring in closer proximity to the spill. However, the mainstems of large, occupied tributaries (Bogue Chitto, Strong, Yockanookany) contain moderate densities of the Pearl River map turtle (34 percent of total population), which would allow for some rescue potential from tributaries to areas impacted by future catastrophic events.

In terms of resiliency, the future condition is expected to decline for all but one resilience unit. The future scenarios project out to the year 2070 to capture the species' response to threats and changing landscape conditions. The impacts from the existing Ross Barnett Reservoir will continue affecting the species, and resilience of the Middle Pearl-Strong unit will decline, and the turtle populations in the northernmost unit (Upper Pearl) will become even more spatially and genetically isolated over time. An additional planned development project (the One Lake project) downstream of the existing reservoir could affect up to 170 turtles directly and 360 turtles indirectly in the Middle Pearl-Strong unit (Selman 2020b, pp. 192–193). If this impoundment project moves forward, the species' viability will continue to decline in the foreseeable future as resiliency declines through loss of suitable habitat and further isolation of turtles above the reservoirs. The turtles in the Upper Pearl unit are subject to genetic isolation and potentially the effects of small population size as the species in this unit will not be connected to the rest of the contiguous habitat south of the reservoir.

Another future threat to the species is SLR, which will cause a contraction in the Lower Pearl unit as saline waters encroach upstream from the Gulf of Mexico, and the effects will be magnified with hurricane-related storm surge pulsing saline water upstream into the freshwater system. The amount of habitat affected over time depends on the rate of SLR and other factors that influence surge, such as increased hurricane or storm frequency and severity.

An additional threat that is expected to impact the species within the foreseeable future includes the continued collection from wild populations for the domestic and international pet trade. Map turtles are desired by collectors for their intricate shell patterns. Despite the less distinctive shell patterns and markings of adult Pearl River map turtles, the species remains a target for some herptile enthusiasts and personal collections. The demand for turtles globally is increasing, which results in more intense pressures on wild populations. The threat of illegal collection is expected to continue into the foreseeable future.

The overall future condition of the species is expected to continue a declining trajectory resulting in compromised viability as described in the future scenarios out to year 2070. Thus, after assessing the best available information, we conclude that the Pearl River map turtle is not currently in danger of extinction but is likely to become in danger of extinction 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. The court in *Center for Biological Diversity* v. *Everson,* 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), vacated the provision 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'' (Final Policy; 79 FR 37578, July 1, 2014) that provided if the Service determines that a species is threatened throughout all of its range, the Service will not analyze whether the species is endangered in a significant portion of its range.

Therefore, we proceed to evaluating whether the species is endangered 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 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.

Following the court's holding in *Everson,* we now consider whether the species is in danger of extinction in a significant portion of its range. In undertaking this analysis for the Pearl River map turtle, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species may be endangered.

We evaluated the range of the Pearl River map turtle to determine if the species is in danger of extinction now in any portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. We focused our analysis on portions of the species' range that may meet the definition of an endangered species. For Pearl River map turtle, we considered whether the threats or their effects on the species are greater in any biologically meaningful portion of the species' range than in other portions such that the species is in danger of extinction now in that portion.

The statutory difference between an endangered species and a threatened species is the time frame in which the species becomes in danger of extinction; an endangered species is in danger of extinction now while a threatened species is not in danger of extinction now but is likely to become so within the foreseeable future. Thus, we reviewed the best scientific and commercial data available regarding the time horizon for the threats that are driving the Pearl River map turtle to warrant listing as a threatened species throughout all of its range. We then considered whether these threats or their effects are occurring (or may imminently occur) in any portion of the species' range with sufficient magnitude such that the species is in danger of extinction now in that portion of its range. We examined the following threats: effects of climate change (including SLR), habitat loss and degradation, and illegal collection. We also considered whether cumulative effects contributed to a concentration of threats across the species' range.

Overall, we found that the threat of SLR and habitat loss is likely acting disproportionately to particular areas within the species' range. The threat of SLR is concentrated in the Lower Pearl, which is the southernmost resilience unit that connects to the Gulf of Mexico. However, the salinity influx into the species' habitat due to SLR is not currently affecting this area but will affect the species' habitat within the foreseeable future. Thus, we have determined that SLR is not currently affecting this portion of the range to the extent that endangered status is warranted.

The threat of habitat loss and degradation is concentrated on the Middle Pearl-Strong and Upper Pearl units due to an existing reservoir and a planned project that disjoins the connectivity of turtles above and below the reservoir. The impacts due to habitat degradation and loss because of the existing reservoir are acting on the species' current condition and possibly future condition if the One Lake project is constructed as planned. The impacts from the One Lake project are in the future and are not currently affecting the species; therefore, we will only consider the existing reservoir for the analysis to determine if the species is endangered in a significant portion of its range.

After identifying areas where the concentration of threats of habitat degradation and loss affects the species or its habitat and the time horizon of these threats, we evaluated whether the species is endangered in the affected portion of the range. The area that currently contains a concentration of threats includes a portion of the Middle Pearl-Strong and Upper Pearl units. Habitat loss and degradation from an existing reservoir has reduced the amount and quality of existing habitat for the species in these units. The Ross Barnett Reservoir, constructed between 1960 and 1963 near Jackson, Mississippi, changed the natural hydrology of the Pearl River and resulted in 20.9 rmi (33.6 rkm) of river submerged and made unsuitable for the Pearl River map turtle (Lindeman et al. 2020, p. 173). Low population densities of turtles have been observed upstream from the reservoir (Selman and Jones 2017, pp. 32–34). Notable population declines also have been observed in the stretch of the Pearl River downstream of the Ross Barnett Reservoir (north of Lakeland Drive), but the exact reason for the decline is unknown (Selman 2020b, p. 194). However, despite these declines, the species can be found throughout the Pearl River downstream of the reservoir, and all size classes and moderate population densities have been observed in the mainstem and tributaries upstream of the reservoir. As a result, the Pearl River map turtle is not currently in danger of extinction in the portion of the range affected by the Barnett Ross Reservoir. We found no biologically meaningful portion of the Pearl River map turtle's range where threats are impacting individuals differently from how they are affecting the species elsewhere in its range, or where the biological condition of the species differs from its condition elsewhere in its range such that the status of the species in that portion differs from any other portion of the species' range. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the Pearl River map turtle is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *U.S. 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, including the definition of ''significant'' that those court decisions held to be invalid.

Determination of Pearl River Map Turtle's Status

Our review of the best scientific and commercial data available indicates that the Pearl River map turtle meets the Act's definition of a threatened species. Therefore, we are listing the Pearl River map turtle as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (*https://www.fws.gov/program/endangered-species*), or from our Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Once the Pearl River map turtle is listed (see **DATES**, above), funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Louisiana and Mississippi will be eligible for Federal

funds to implement management actions that promote the protection or recovery of the Pearl River map turtle. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/service/financial-assistance.*

Please let us know if you are interested in participating in recovery efforts for the Pearl River map turtle. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7 of the Act is titled, ''Interagency Cooperation'' and mandates all Federal agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

Examples of discretionary actions for the Pearl River map turtle that may be subject to consultation procedures under section 7 are land management or other landscape-altering activities on Federal lands administered by the Service (Refuges) and Department of Defense (Stennis Western Maneuver Area) as well as actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the Field Supervisor of the Service's Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

It is the policy of the Services, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the extent known at the time a species is listed, specific activities that will not be considered likely to result in violation of section 9 of the Act. To the extent possible, activities that will be considered likely to result in violation will also be identified in as specific a manner as possible. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of the species. Although most of the prohibitions in section 9 of the Act apply to endangered species, sections 9(a)(1)(G) and 9(a)(2)(E) of the Act (16 U.S.C. 1538(a)(1)(G) and (a)(2)(E)) prohibit the violation of any regulation under section 4(d) pertaining to any threatened species of fish or wildlife, or threatened species of plant, respectively. Section 4(d) of the Act (16 U.S.C. 1533(d)) directs the Secretary to promulgate protective regulations that are necessary and advisable for the conservation of threatened species. As a result, we interpret our policy to mean that, when we list a species as a threatened species, to the extent possible, we identify activities that will or will not be considered likely to result in violation of the protective regulations under section 4(d) of the Act for that species.

At this time, we are unable to identify specific activities that will or will not be considered likely to result in violation of section 9 of the Act beyond what is already clear from the descriptions of prohibitions and exceptions established by protective regulation under section 4(d) of the Act.

Questions regarding whether specific activities would constitute violation of section 9 of the Act should be directed to the Field Supervisor of the Service's Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

II. Protective Regulations Under Section 4(d) of the Act for the Pearl River Map Turtle

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened. Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. With these two sentences in section 4(d), Congress delegated broad authority to the Secretary to determine what protections would be necessary and advisable to provide for the conservation of threatened species, and even broader authority to put in place any of the section 9 prohibitions, for a given species.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species. [She] may, for example, permit taking, but not importation of such species, or [she] may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

The provisions of this species' protective regulations under section 4(d) of the Act are one of many tools that we will use to promote the conservation of

the Pearl River map turtle. Nothing in 4(d) rules change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Pearl River map turtle. As mentioned previously in Available Conservation Measures, Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. These requirements are the same for a threatened species regardless of what is included in its 4(d) rule.

Section 7 consultation is required for Federal actions that ''may affect'' a listed species regardless of whether take caused by the activity is prohibited or excepted by a 4(d) rule (''blanket rule'' or species-specific 4(d) rule). A 4(d) rule does not change the process and criteria for informal or formal consultations and does not alter the analytical process used for biological opinions or concurrence letters. For example, as with an endangered species, if a Federal agency determines that an action is ''not likely to adversely affect'' a threatened species, this will require the Service's written concurrence (50 CFR 402.13(c)). Similarly, if a Federal agency determines that an action is ''likely to adversely affect'' a threatened species, the action will require formal consultation and the formulation of a biological opinion (50 CFR 402.14(a)).

Provisions of the 4(d) Protective Regulations for the Pearl River Map Turtle

Exercising the Secretary's authority under section 4(d) of the Act, we have developed a rule that is designed to address the Pearl River map turtle's conservation needs. As discussed previously under Summary of Biological Status and Threats, we have concluded that the Pearl River map turtle is likely to become in danger of extinction within the foreseeable future primarily due to habitat degradation and loss caused by degraded water quality, channel or hydrological modifications and impoundments, agricultural runoff, development, mining; collection; and climate change. Additional stressors acting on the species include disease and contaminants (pesticides and heavy metals). Drowning and/or capture due to bycatch associated with recreational and commercial fishing of some species of freshwater fish may also affect the Pearl River map turtle but are of unknown frequency or severity.

Section 4(d) requires the Secretary to issue such regulations as she deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(1) of the Act prescribes for endangered species. We are not required to make a ''necessary and advisable'' determination when we apply or do not apply specific section 9 prohibitions to a threatened species (In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation, 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (citing Sweet Home Chapter of Cmtys. for a Great Or. v. Babbitt, 1 F.3d 1, 8 (D.C. Cir. 1993), rev'd on other grounds, 515 U.S. 687 (1995))). Nevertheless, even though we are not required to make such a determination, we have chosen to be as transparent as possible and explain below why we find that the protections, prohibitions, and exceptions in this rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Pearl River map turtle.

The protective regulations for Pearl River map turtle incorporate prohibitions from section 9(a)(1) of the Act to address the threats to the species. The prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. This protective regulation includes all of these prohibitions because the Pearl River map turtle is at risk of extinction in the foreseeable future and putting these prohibitions in place will help to better preserve the condition of the species' resilience units, slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats.

In particular, this 4(d) rule will provide for the conservation of the Pearl River map turtle by prohibiting the following activities, unless they fall within specific exceptions or are otherwise authorized or permitted: importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulation at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take will help preserve the species' remaining populations, slow their rate of decline, and decrease cumulative effects from other ongoing or future threats. Therefore, we are prohibiting take of the Pearl River map turtle, except for take resulting from those actions and activities specifically excepted by the 4(d) rule. Exceptions to the prohibition on take include the general exceptions to the prohibition on take of endangered wildlife, as set forth in 50 CFR 17.21 and additional exceptions, as described below.

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise prohibited activities, including those described above. The regulations that govern permits for threatened wildlife state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. These include permits issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act (50 CFR 17.32). The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

In addition, to further the conservation of the species, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a federally recognized Tribe, who is designated by their agency or Tribe for such purposes,

may, when acting in the course of their official duties, take threatened wildlife without a permit if such action is necessary to: (i) Aid a sick, injured, or orphaned specimen; or (ii) Dispose of a dead specimen; or (iii) Salvage a dead specimen that may be useful for scientific study; or (iv) Remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live capturing and releasing the specimen unharmed, in an appropriate area.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities designed to conserve the Pearl River map turtle that may result in otherwise prohibited take without additional authorization.

The 4(d) rule will also provide for the conservation of the species by allowing exceptions that incentivize conservation actions or that, while they may have some minimal level of take of the Pearl River map turtle, are not expected to rise to the level that would have a negative impact (*i.e.,* would have only de minimis impacts) on the species' conservation. The exceptions to these prohibitions include take resulting from forest management practices that use State-approved best management practices (described below) that are expected to have negligible impacts to the Pearl River map turtle and its habitat.

Silvicultural Practices and Forest Management Activities that Use State Forestry Best Management Practices—Forest management practices that implement State-approved BMPs designed to protect water quality and stream and riparian habitat will avoid or minimize the effects of habitat alterations in areas that support Pearl River map turtles. We consider that certain activities associated with silvicultural practices and forest management activities may remove riparian cover or forested habitat, change land use within the riparian zone, or increase stream bank erosion and/or siltation. We recognize that forest management practices are widely implemented in accordance with State-approved BMPs (as reviewed by Cristan et al. 2018, entire), and the adherence to these BMPs broadly protects water quality, particularly related to sedimentation (as reviewed by Cristan et al. 2016, entire; Warrington et al. 2017, entire; and Schilling et al. 2021, entire), to an extent that does not impair the species' conservation. Forest landowners who properly implement those BMPs are helping conserve the Pearl River map turtle, and this 4(d) rule is an incentive for all landowners to properly implement applicable State-approved BMPs to avoid any take implications. Further, those forest landowners who are third-party-certified (attesting to the sustainable management of a working forest) to a credible forest management standard are providing audited certainty that BMP implementation is taking place across the landscape.

Summary of Species-specific Incidental Take Exceptions in the 4(d) Rule—Under this final 4(d) rule, incidental take associated silviculture practices and forest management activities that use State-approved BMPs designed to protect water quality and stream and riparian habitat with the following activities is excepted from the prohibitions.

III. Critical Habitat for the Pearl River Map Turtle

Background

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resource management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal action agency would have already been required to consult with the Service even absent the critical habitat designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the species. Even if the Service were to conclude after

consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in the 4(d) rule. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. On April 5, 2024, we published a final rule revised our regulations at 50 CFR part 424 to further clarify when designation of critical habitat may not be prudent (89 FR 24300). Our regulations (50 CFR424.12(a)(1)) state that designation of critical habitat may not be prudent in circumstances such as, but not limited to, the following:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States; or

(iv) No areas meet the definition of critical habitat.

We found that designation of critical habitat was not prudent for the Pearl River map turtle in our November 23, 2021, proposed rule (86 FR 66624). We based this finding on a determination that the designation of critical habitat would increase the threat to the Pearl River map turtle from unauthorized collection and trade, and may further facilitate inadvertent or purposeful disturbance of the turtle's habitat. We stated that designation of occupied critical habitat is likely to confer only an educational benefit to the species beyond that provided by listing. Alternatively, the designation of unoccupied critical habitat for the Pearl River map turtle could provide an educational and at least some regulatory benefit for the species. However, we stated that the risk of increasing significant threats to the species by publishing more specific location information in a critical habitat designation greatly outweighed the benefits of designating critical habitat.

We received numerous comments from private and Federal entities stating that the locations of Pearl River map turtle are already available in scientific journals, online databases, and documents published by the Service, which led us to reconsider the prudency determination for these species. Our original determination rested on the increased risk of poaching resulting from publicizing the locations of Pearl River map turtle populations through maps of critical habitat in the **Federal Register**. In light of the comments we received during the November 23, 2021, proposed rule's comment period, we now find that designation of critical habitat is prudent for the Pearl River map turtle. Our rationale is outlined below. The principal benefit of including an area in critical habitat is the requirement for agencies to ensure actions they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of

any designated critical habitat, the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Critical habitat provides protections only where there is a Federal nexus, that is, those actions that come under the purview of section 7 of the Act. Critical habitat designation has no application to actions that do not have a Federal nexus.

Section 7(a)(2) of the Act mandates that Federal agencies, in consultation with the Service, evaluate the effects of their proposed actions on any designated critical habitat. Similar to the Act's requirement that a Federal agency action not jeopardize the continued existence of listed species, Federal agencies have the responsibility not to implement actions that would destroy or adversely modify designated critical habitat. Federal actions affecting the species even in the absence of designated critical habitat areas will still benefit from consultation pursuant to section 7(a)(2) of the Act and may still result in jeopardy findings. However, the analysis of effects of a proposed project on critical habitat is separate and distinct from that of the effects of a proposed project on the species itself. The jeopardy analysis evaluates the action's impact to survival and recovery of the species, while the destruction or adverse modification analysis evaluates the action's effects to the designated habitat's contribution as a whole to conservation of the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. This would, in some instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater benefits to the recovery of a species than would listing alone.

Map turtles are valuable to collectors and the threat of poaching remains imminent (Factor B) for the Pearl River map turtle. There is evidence that the designation of critical habitat could result in an increased threat from taking, specifically collection, for the species, through publication of maps and a narrative description of specific critical habitat units in the **Federal Register**. However, such information on locations of extant Pearl River map turtle populations is already widely available to the public through many outlets, as noted above. Therefore, identification and mapping of critical habitat is not expected to increase the degree of such threat. In the comments we received on the November 23, 2021, proposed rule, we were alerted to the existing public availability of many, if not all, populations or locations of the Pearl River map turtle.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the Pearl River map turtle is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

For the Pearl River map turtle, the species' needs are sufficiently well known, but a careful assessment of the economic impacts that may occur due to a critical habitat designation is ongoing. Until these efforts are complete, information sufficient to perform a required analysis of the impacts of the designation is lacking; therefore, we find the designation of critical habitat for the Pearl River map turtle to be not determinable at this time. In the future, we plan to publish a proposed rule to designate critical habitat for the Pearl River map turtle concurrent with the availability of a draft economic analysis of the proposed designation.

IV. Similarity of Appearance for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle

Section 4(e) authorizes the treatment of a species, subspecies, or population segment as an endangered or threatened species if: (a) Such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to the Act that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and (c) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act (16 U.S.C. 1533(e)).

The treatment of a species as an endangered or threatened species due to similarity of appearance under section 4(e) of the Act does not extend other protections of the Act, such as consultation requirements for Federal agencies under section 7 and the recovery planning provisions under section 4(f), that apply to species that are listed as endangered or threatened species under section 4(a) of the Act. All applicable prohibitions and exceptions for species listed under section 4(e) of the Act due to similarity of appearance to an endangered or threatened species are set forth in a species-specific rule issued under section 4(d) of the Act. The Service implements this section 4(e) authority in accordance with the Act and our regulations at 50 CFR 17.50 through 17.52. Our analysis of the criteria for the 4(e) rule is described in the proposed rule (86 FR 66624; November 23, 2021) for the similarity of appearance of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle in relation to the threatened Pearl River map turtle.

Do the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle so closely resemble in appearance, at the point in question, the Pearl River map turtle such that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species?

Map turtles (genus *Graptemys*) are named for the intricate pattern on the carapace that often resembles a topographical map. In addition to the intricate markings, the shape of the carapace (top half of shell) in map turtles is very distinctive. The carapace is keeled, and many species show some type of knobby projections or spikes down the vertebral scutes (located down the midline of the carapace). All five of these map turtle species are in the megacephalic (large-headed) clade where the females have large, broad heads, and all occur in the southeastern United States. The ranges of these species do not geographically overlap, with the exception of Barbour's and Escambia map turtles in some areas of the Choctawhatchee River drainage in Alabama and Florida (see figure 2, below). Additional information regarding characteristics and identification of megacephalic map turtles is described in the SSA report (Service 2023, pp. 5–8). The lack of distinctive physical features makes it difficult to differentiate among these species, even for law enforcement officers, especially considering their similar body form, shell markings, and head markings (Selman 2021, pers. comm). The Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle all closely resemble in appearance, at the point in question, the Pearl River map turtle such that enforcement personnel would have substantial difficulty in

attempting to differentiate between the listed and unlisted species.

Is the effect of this substantial difficulty an additional threat to the Pearl River map turtle?

Under 50 CFR 17.50(b)(2), we considered the possibility that an additional threat is posed to the Pearl River map turtle by unauthorized trade or commerce by persons who misrepresent Pearl River map turtle specimens as Alabama map turtle, Barbour's map turtle, Escambia map turtle, or Pascagoula map turtle specimens, because this might result in the Pearl River map turtle entering the global black market via the United States or contributing to market demand for the Pearl River map turtle. Collection is a real threat to many turtle species in the United States and globally (Stanford et al. 2020, entire), as turtles are collected in the wild and sold into the pet trade. This potential unauthorized trade or commerce of Pearl River map turtles is caused by a lack of distinct physical characteristics and difficulty in distinguishing individual species of megacephalic map turtles, posing a problem for Federal and State law enforcement agents. The listing of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened due to similarity of appearance minimizes the possibility that private and commercial collectors will be able to misrepresent Pearl River map turtles as Alabama map turtles, Barbour's map turtles, Escambia map turtles, or Pascagoula map turtles for private or commercial purposes. Therefore, we find that the difficulty enforcement personnel will have in attempting to differentiate among the megacephalic map turtle species would pose an additional threat to the Pearl River map turtle.

Would treatment of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as endangered or threatened due to similarity of appearance substantially facilitate the enforcement and further the policy of the Act?

The listing of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle due to similarity of appearance will facilitate Federal, State, and local law enforcement agents' efforts to curtail unauthorized possession, collection, and trade in the Pearl River map turtle. Listing the four similar map turtle species due to similarity of appearance under section 4(e) of the Act and providing applicable prohibitions and exceptions in a rule issued under section 4(d) of the Act will substantially facilitate the enforcement and further the policy of the Act for the Pearl River map turtle. For these reasons, we are listing the Alabama map turtle (occurring in Alabama, Georgia, Mississippi, and Tennessee), Barbour's map turtle (occurring in Alabama, Florida, and Georgia), Escambia map turtle (occurring in Alabama and Florida), and Pascagoula map turtle (occurring in Mississippi) as threatened due to similarity of appearance to the Pearl River map turtle pursuant to section 4(e) of the Act.

With this final rule, we do not consider the Alabama map turtle, Barbour's map turtle, Escambia map turtle, or Pascagoula map turtle to be biologically threatened or endangered, but we have determined that listing the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened species under the similarity of appearance provision of section 4(e) of the Act, coupled with a 4(d) rule as discussed below, minimizes misidentification and enforcement-related issues. This listing will promote and enhance the conservation of the Pearl River map turtle.

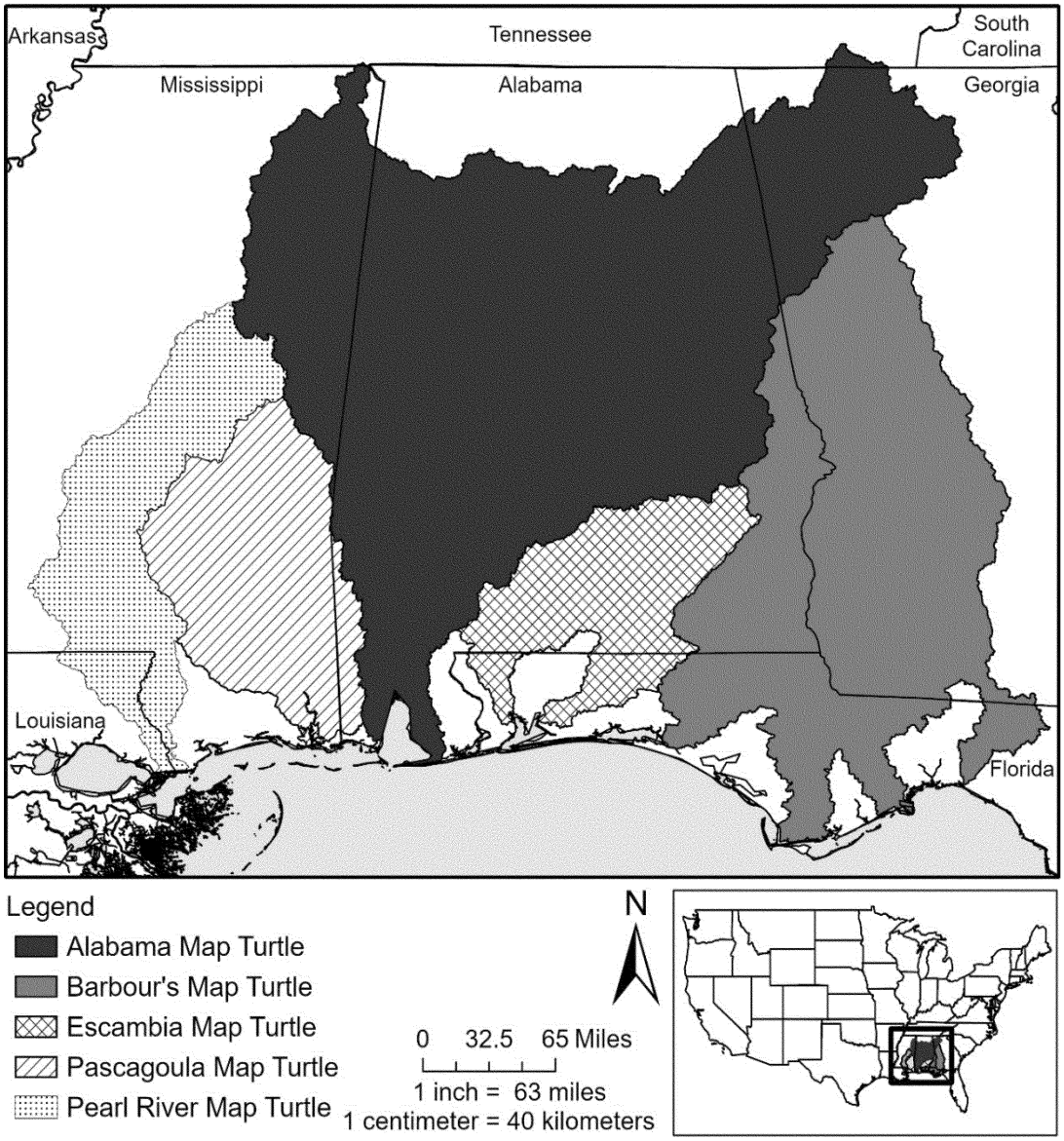

Figure 2. River drainages occupied by Alabama map turtle, Barbour's map turtle, Escambia map turtle, Pascagoula map turtle, and Pearl River map turtle. This map does not depict the current known range of each species within their respective river drainages.

V. Protective Regulations Issued Under Section 4(d) of the Act for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle

Whenever a species is listed as a threatened species under the Act, the Secretary may specify regulations that she deems necessary and advisable to provide for the conservation of that species under the authorization of section 4(d) of the Act. Because we are listing the Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), and Pascagoula map turtle (*Graptemys gibbonsi*) as threatened species due to similarity of appearance to the Pearl River map turtle (see IV. Similarity of Appearance for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle, above), we are finalizing a 4(d) rule to minimize misidentification and enforcement-related issues. This 4(d) rule will promote and enhance the conservation of the Pearl River map turtle.

This 4(d) rule establishes certain prohibitions on take in the form of collection, capturing, and trapping of these four similar-in-appearance species of map turtle in order to protect the Pearl River map turtle from unlawful take, unlawful possession, and unlawful trade. In this context, take in the form of collect, capture, or trap is defined as any activity where Alabama map turtles, Barbour's map turtles, Escambia map turtles, or Pascagoula map turtles are, or are attempted to be, collected, captured, or trapped from wild populations. Incidental take associated with all otherwise legal activities involving the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle that are conducted in accordance with applicable State, Federal, Tribal, and

local laws and regulations is not considered prohibited under this 4(d) rule.

Provisions of the 4(d) Rule for the Alabama Map Turtle, Barbour's Map Turtle, Escambia Map Turtle, and Pascagoula Map Turtle

The protective regulations for Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle incorporate prohibitions from section 9(a)(1) to address the threats to the Pearl River map turtle. The prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. This protective regulation includes most of these prohibitions because the Pearl River map turtle is at risk of extinction in the foreseeable future and putting these prohibitions in place for Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle will help to reduce threats to the Pearl River map turtle.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulation at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take will help address primary threats to the Pearl River map turtle. We are only prohibiting intentional take in the form of collect, capture, or trap, because the threat of collectors being able to misrepresent Pearl River map turtles as Pearl River map turtles as Alabama map turtles, Barbour's map turtles, Escambia map turtles, or Pascagoula map turtles for private or commercial purposes. This potential unauthorized trade or commerce of Pearl River map turtles is caused by a lack of distinct physical characteristics and difficulty in distinguishing individual species of megacephalic map turtles, posing a problem for Federal and State law enforcement agents. Exceptions to the prohibition on take include the general exceptions to the prohibition on take of endangered wildlife, as set forth in 50 CFR 17.21 and additional exceptions, as described below.

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise prohibited activities, including those described above in accordance with 50 CFR 17.32. The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

In addition, to further the conservation of the species, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a federally recognized Tribe, who is designated by their agency or Tribe for such purposes, may, when acting in the course of their official duties, take threatened wildlife without a permit if such action is necessary to: (i) Aid a sick, injured, or orphaned specimen; or (ii) Dispose of a dead specimen; or (iii) Salvage a dead specimen that may be useful for scientific study; or (iv) Remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live capturing and releasing the specimen unharmed, in an appropriate area. Because collection is the only form of take that is prohibited, this exception will allow any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a federally recognized Tribe to collect the Alabama map turtle, Barbour's map turtle, Escambia map turtle, or Pascagoula map turtle.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities that may result in otherwise prohibited take (in this case, collection) without additional authorization.

The 4(d) rule does not prohibit incidental take of the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle. Incidental take is take that results from, but is not the purpose of, carrying out an otherwise lawful activity. For example, construction activities, application of pesticides and fertilizers, silviculture and forest management practices, maintenance dredging activities that remain in the previously disturbed portion of a maintained channel, and any other legally undertaken actions that result in the accidental take of an Alabama map turtle, Barbour's map turtle, Escambia map turtle, or Pascagoula map turtle will not be considered a violation of section 9 of the Act.

Effects of the Final 4(d) Rule

Listing the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle as threatened species under the ''similarity of appearance'' provisions of section 4(e) of the Act, and the promulgation of a rule under section 4(d) of the Act to extend prohibitions regarding take in the form of collect, capture, or trap, import, export, and commerce to these species, will provide a conservation benefit to the Pearl River map turtle.

As the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle can be confused with the Pearl River map turtle, we strongly recommend maintaining the appropriate documentation and declarations with legal specimens at all times, especially when importing them into the United States, and permit holders must also comply with the import/export transfer regulations at 50 CFR part 14, where applicable. All otherwise legal activities that may involve what we would normally define as incidental take (take that results from, but is not the purpose of, carrying out an otherwise lawful activity) of these

similar turtles, and which are conducted in accordance with applicable State, Federal, Tribal, and local laws and regulations, are not prohibited under this 4(d) rule.

We do not find it necessary to apply incidental take prohibitions for those otherwise legal activities to these four similar turtles (Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle), as these activities will not pose a threat to the Pearl River map turtle because: (1) Activities that affect the waters where the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle reside will not affect the Pearl River map turtle; and (2) the primary threat as it relates to the Pearl River map turtle comes from collection and commercial trade of the similar turtles. Listing the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle under the similarity of appearance provision of section 4(e) of the Act, coupled with this 4(d) rule, will help minimize enforcement problems related to collection and enhance conservation of the Pearl River map turtle.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (*e.g., Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Center for Biological Diversity* v. *U.S. Fish and Wildlife Service,* 2005 WL 2000928 (N.D. Cal. Aug. 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations (ANCs) on a government-to-government basis. In accordance with Secretaries' Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We coordinated with Tribes within the Pearl River map turtle's range when we initiated the SSA process. We also requested review of the SSA report and addressed comments accordingly. We also coordinated with Tribes within the Alabama, Barbour's, and Escambia map turtles' ranges, requesting information regarding threats and conservation actions for those species. There are no Tribes within the range of the Pascagoula map turtle.

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

Authors

The primary authors of this final rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Mississippi Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding entries for ''Turtle, Alabama map'', ''Turtle, Barbour's map'', ''Turtle, Escambia map'', ''Turtle, Pascagoula map'', and ''Turtle, Pearl River map'' in alphabetical order under Reptiles to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	* *
		REPTILES		
*	*	*	*	* *
Turtle, Alabama map	*Graptemys pulchra*	Wherever found	T (S/A)	89 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], 7/12/2024; 50 CFR 17.42(n).[4d]
*	*	*	*	* *
Turtle, Barbour's map	*Graptemys barbouri*	Wherever found	T (S/A)	89 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], 7/12/2024; 50 CFR 17.42(n).[4d]

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	* *	*	*	* *
Turtle, Escambia map	*Graptemys ernsti*	Wherever found	T (S/A)	89 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], 7/12/2024; 50 CFR 17.42(n).[4d]
*	* *	*	*	* *
Turtle, Pascagoula map ..	*Graptemys gibbonsi*	Wherever found	T (S/A)	89 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], 7/12/2024; 50 CFR 17.42(n).[4d]
*	* *	*	*	* *
Turtle, Pearl River map ...	*Graptemys pearlensis*	Wherever found	T	89 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS], 7/12/2024; 50 CFR 17.42(m).[4d]
*	* *	*	*	* *

■ 3. Amend § 17.42 by adding paragraphs (m) and (n) to read as follows:

§ 17.42 Species-specific rules—reptiles.

* * * * *

(m) Pearl River map turtle (*Graptemys pearlensis*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the Pearl River map turtle. Except as provided under paragraphs (m)(2) and (3) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of a commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *General exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take, as set forth at § 17.21(c)(2) and (4) for endangered wildlife.

(ii) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

(iii) Take as set forth at § 17.31(b).

(3) *Exceptions from prohibitions for specific types of incidental take.* You may take this species incidental to an otherwise lawful activity caused by silvicultural practices and forest management activities that use State-approved best management practices designed to protect water quality and stream and riparian habitat.

(n) Alabama map turtle (*Graptemys pulchra*), Barbour's map turtle (*Graptemys barbouri*), Escambia map turtle (*Graptemys ernsti*), and Pascagoula map turtle (*Graptemys gibbonsi*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the Alabama map turtle, Barbour's map turtle, Escambia map turtle, and Pascagoula map turtle. Except as provided under paragraph (n)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to these species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Intentional take in the form of collect, capture, or trap (other than for scientific purposes).

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of a commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *General exceptions from prohibitions.* In regard to these species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take as set forth at § 17.31(b).

(iii) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

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Part III

Department of State

22 CFR Part 96

Intercountry Adoption: Regulatory Changes to Accreditation and Approval Regulations in Intercountry Adoption; Final Rule

DEPARTMENT OF STATE

22 CFR Part 96

[Public Notice: 12242]

RIN 1400–AE39

Intercountry Adoption: Regulatory Changes to Accreditation and Approval Regulations in Intercountry Adoption

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (the Department) publishes a final rule revising the Code of Federal Regulations to amend requirements for accreditation and approval by the United States to provide adoption services in intercountry adoption cases. This rule amends regulations to provide clarification, updates, or other adaptation of familiar accreditation and approval standards for intercountry adoption. It also includes a new section with alternative procedures for primary providers that apply in intercountry adoption by relatives. The new regulations for adoption by relatives simplify and streamline the adoption process by limiting the number of adoption services the primary provider must provide. The final rule emphasizes that accredited agencies and approved persons comply with all applicable laws in foreign countries where they provide adoption services.

DATES: This final rule becomes effective January 8, 2025.

FOR FURTHER INFORMATION CONTACT:

• Technical Information: Emily Spencer, (202) 647–4000, *adoptionoversight@state.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Contents

I. Introduction

This final rule amends 22 CFR part 96 and the changes clarify and update the 2006 final rule that established the regulatory framework for the accreditation and approval function required under the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention), the Intercountry Adoption Act of 2000 (IAA), and the Intercountry Adoption Universal Accreditation Act of 2012 (UAA). The Department drew from its 17 years of observations and experience with the accreditation regulations to reflect the rule's practical operation, and from the observations of adoption stakeholders including, but not limited to, adoptive parents, adoption service providers (ASPs), Congressional offices, adult adoptees, and law enforcement authorities.

On November 20, 2020, the Department published a notice of proposed rulemaking (NPRM, often referred in this preamble as the proposed rule). The proposed rule included changes to subparts A, B, E, F, L, and M and a new subpart R. The Department intends to examine changes to the remaining subparts at a later time.

This final rule takes into account public comments received in response to the NPRM. The Department appreciates the extensive feedback received from stakeholders in response to the NPRM and notes the many contributions from stakeholders who recommended substantive revisions to the Department's changes in the proposed rule. The final rule incorporates many of the substantive revisions proposed by the public. Additionally, as explained below, this rule does not include three major sections of the proposed rule. The Department will consider consultations with stakeholders before making further regulatory proposals relating to these three sections.

II. Overview of Major Changes and Provisions in the Final Rule

This section of the final rule summarizes the major differences between the proposed rule and the final rule. This overview is followed in part III by a detailed, section-by-section discussion of significant comments received in response to the NPRM.

A. Adoption by Relatives

The long-anticipated [1] new provisions on adoption by relatives were welcomed by most commenters, though some thought the new provisions did not go far enough in streamlining the required adoption services and should have further limited the role of primary providers in relative cases. Most commenters, however, welcomed the simplified role of the primary provider in the proposed rule requiring primary providers to focus on three of the six adoption services listed in the CFR: [2]

• (3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;

• (5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; and

• (6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) childcare or any other social service pending an alternative placement.

The new provisions in § 96.100 allow a primary provider to develop and implement an adoption service plan addressing only three adoption services noted above in adoption by relatives. In all other intercountry adoptions, the primary provider must develop and implement a service plan for providing all six adoption services, in accordance with § 96.44. The provisions in § 96.100(d) require that the alternative procedures in § 96.100 be performed in accordance with the Convention, the IAA, the UAA and their implementing regulations.

Some commenters expressed the preference that post-placement monitoring should not be required at all in adoptions by relatives. The Department emphasizes that post-placement monitoring mandated in the IAA remains an important element of the adoption services in the final rule,

[1] The IAA provided in section 502(a) for establishment by regulation of alternative procedures for adoption of children by relatives. The Department did not include alternative procedures for adoption by relatives in its accreditation rule published in 2006, which this rule amends, opting to pursue it later once the new accreditation rule was implemented. Adoption service providers with clients adopting relatives asked frequently over the intervening years when the Department would produce alternative procedures for relative cases.

[2] 22 CFR 96.2 Definitions: *Adoption service* means any one of the following six services:

(1) Identifying a child for adoption and arranging an adoption;

(2) Securing the necessary consent to termination of parental rights and to adoption;

(3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;

(4) Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;

(5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or

(6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.

including with respect to the adoption by relatives. Adoption services five and six include essential services related to monitoring the continued well-being of the child's placement and to ensuring that the prospective adoptive parents can care for the particular needs of a child. Unlike other services that may not be applicable or made redundant in the context of a pre-existing relationship, services 5 and 6 apply equally whether or not the child is related to the prospective adoptive parents.

The public comments also revealed disagreement regarding how the term ''relative'' should be defined and to which family relationships the alternative procedures for primary providers should apply. Some commenters preferred the relationships found in the regulations of the Department of Homeland Security (DHS) at 8 CFR 204.309(b)(2)(iii) which are exempt from the prohibition on prior contact with a child's parents or caregivers. Section 96.2 Definitions includes a definition of relative relationships that applies solely to determinations of when those alternative procedures for primary providers in § 96.100 may be used. Although the Department's and DHS's definitions overlap quite a bit, they differ enough in content and purpose that the Department retained its proposed definition of ''relative'' in the final rule. The definition of ''relative,'' and other public comments related to subpart R are further addressed in the section-by-section discussion in part III, below, and in appendix A at the end of this notice.

B. Compliance With All Applicable Laws

In the NPRM, the Department proposed a new section 96.29 in subpart F identifying conduct that does not conform to the regulatory framework of the IAA. Commenters found the new provisions to be duplicative and pointed out that agencies and persons were already required to operate in accordance with the Convention, the IAA, the UAA, and their implementing regulations. They suggested that restating the principle again as a new standard in subpart F was not necessary. The final rule does not include a new section 96.29. The Department instead retained the provisions on compliance with applicable laws in foreign countries in section 96.30 and renamed that section State Licensing and Compliance with All Applicable Laws. For a discussion of this and other provisions proposed in section 96.29, see the public comment discussion of § 96.29 in section III of this preamble.

C. Child Care Payments

The changes to sections 96.36(a) and 96.40(c)(4) in the NPRM would have prohibited ASPs from charging prospective adoptive parents for the care of a particular child prior to the completion of the intercountry adoption process. Payments for specific child welfare activities, if permitted by the country of origin, are controversial because of the potential risk of diverting payments to support illicit practices such as recruiting children into institutions or incentivizing institutions to retain children longer than necessary, and as such, have been prohibited by many countries. The Department recognizes, however, that prohibiting such payments that could pay for essential needs such as food, medical care, and other child welfare-related services may be detrimental to children, particularly for children awaiting adoption who have special needs.

Commenters pointed out that historically payments were allowed if permitted or required by the child's country of origin. Several commenters noted the regularity with which the health of a child with special needs deteriorates and medical needs increase during the time between the referral and the final adoption, and that preventing funding for such care, if permitted by the country of origin, would not be in the best interests of the child. As discussed in section III of this preamble, the Department did not retain in the final rule proposed changes to § 96.36(a). This final rule reinforces the standard in § 96.36(a) with changes to § 96.36(b) that augment recordkeeping requirements on the payment of fees in connection with intercountry adoption. Enhanced standards for recordkeeping will increase the oversight of any permitted or required payments for specific activities related to the adoption as outlined in § 96.36(a). The recordkeeping requirements will help decrease the risk that payments intended to benefit children will be diverted for illicit purposes. It will also assist agencies and persons to effectively monitor and oversee payments and fees paid by their employees and supervised providers in connection with an intercountry adoption. In no instance shall permitted or required contributions be remitted as payment or as an inducement to release a child for adoption.

D. Procedures and Requirements for Adverse Action by the Secretary, Including for Challenges to Such Adverse Action

The proposed changes to section 96.83 in subpart L impact provisions regarding adverse action by the Secretary leading to suspension or cancellation of an agency or person's accreditation or approval. The changes include procedural requirements for notifying agencies and persons of adverse actions taken by the Secretary and the reasons for such action. New sections 96.84(a) and (b) describe the administrative process by which an ASP may request withdrawal of the suspension or cancellation as unwarranted and the standards the Department will use to review such a request. The process mirrors provisions in § 96.76 in which an ASP may provide information to an accrediting entity to demonstrate that an adverse action was unwarranted. This process is independent of a petition for relief from the Secretary's suspension or cancellation and is based upon the ASP's correction of deficiencies. A petition for relief is now addressed in § 96.84(c) and is similar to provisions in § 96.78(a).

A number of commenters appreciated the introduction of due process features when the Secretary imposes adverse action of suspension or cancellation. Other commenters thought accrediting entities should adhere to such procedures when imposing adverse actions, particularly providing specific evidence relied on to support the adverse action. The discussion in the section-by-section analysis for section 96.83 explains that some due process provisions in § 96.83 go farther than those governing adverse action by accrediting entities in § 96.76. This is largely because of the emergent nature of the conduct triggering suspension or cancellation by the Secretary. Similarly, imposing adverse action before providing an opportunity to rebut the Department's conclusions is justified and often cannot wait when the imposition of adverse action relates to child safety or other serious or emergent compliance issues.

In 2016, the Department exercised its authority for the first time to debar an agency and determined based on that experience that it would be beneficial to propose relevant details in the regulations as to the notice, evidentiary, and procedural requirements relating to debarment proceedings. Section 96.88 sets forth the procedures, requirements, time frames, and standards of review that apply when the Department

undertakes a debarment proceeding when prior notice is given. In § 96.89, the Department sets forth the corresponding procedures, requirements, time frames, and standards of review for debarment effective immediately, without prior notice. Some commenters objected to short time frames to obtain and present information in the proceedings and the lack of common procedural features such as discovery. They asserted the lack of discovery, for example, might prejudice the agency's or person's ability to respond fully to claims against it. The Department considers these and other comments relating to debarment proceeding procedures and requirements in the section-by-section analysis in part III of this preamble, including appeal options in federal court and notification requirements when the Secretary debars an accredited agency or approved person.

E. Pausing on Revising Standards in Three Sections of Subpart F

The Department received public comments expressing concern or disagreement about parts of the proposed changes in sections 96.40, 96.50, and 96.54 in the proposed rule. The Department concluded that the issues raised in these comments warrant further consideration. This final rule does not include revisions to these three sections. A brief summary of the relevant comments and content of these sections follows:

§ 96.40: Fee Policies and Procedures

Comments submitted about standards relating to adoption fees and expenses uniformly expressed concern with the way the Department characterized fees relating to intercountry adoption practice and the burden on adoption service providers to revise, recalculate, and report fee schedules conforming to the proposed changes. Commenters indicated the proposed rubrics failed to reflect the way agencies and persons structure their work as well as the flexibility needed to adapt to dynamic conditions.

§ 96.50: Placement and Post-Placement Monitoring Until Final Adoption in Incoming Cases

The revisions to § 96.50 in the proposed rule would have expanded required efforts by ASPs for taking action in the event of a disruption and reporting to all relevant authorities about disruption cases. Commenters asserted the proposed changes would require significant resources to implement.

§ 96.54: Placement Standards in Outgoing Convention Cases

We received many comments relating to the proposed changes to this section. The comments were against making any of our proposed changes, arguing among other things that the provisions would have a negative impact on outgoing adoption practice.

Two Additional Sections in Subpart F Ready for Renewed Consultations

Several commenters expressed strong interest in making changes to two additional sections in subpart F, sections 96.46 and 96.48.

§ 96.46: Using Providers in Foreign Countries

Regarding foreign supervised providers, in the proposed rule the Department acknowledged there were areas of discord relating to oversight of foreign supervised providers. We stated our intention to undertake a consultative process on these issues that would consider the entire range of standards relating to foreign supervised providers. In addition to a few minor textual updates to § 96.46 in the NPRM and in the final rule, we made changes to § 96.46(b)(7) and (8) requiring all payments to foreign supervised providers be provided through the primary provider. The primary provider must also provide prospective adoptive parents with a written explanation about the return of unused funds within 60 days.

§ 96.48: Preparation and Training of Prospective Adoptive Parents in Incoming Cases

Several commenters were disappointed that the proposed rule did not amend the requirements for parent preparation and training. The commenters expressed a need to increase the number of hours required for parent preparation and welcomed an opportunity to collaborate on the parameters of such training. No such changes are reflected in the final rule but further consideration will be given to these suggestions.

F. Other Significant Changes

Changes to Elements in Subpart A, General Provisions

In the definitions section of the final rule, § 96.2, we did not retain the proposed definition of ''authorization.'' Commenters noted this feature of the Hague Adoption Convention, Article 12, is already incorporated into the regulations in the many references to compliance with the Convention and further definition would be repetitive.

In the final rule, we have kept several of the proposed changes to the definition of ''best interests of the child'' in § 96.2. The definition in the final rule clarifies how U.S. accredited and approved providers should consider the best interests of a child when the child is abroad and outside the jurisdiction of a U.S. State. The NPRM only included a reference to the Convention in the proposed revision to the definition of best interests of the child. Based on public comments, the definition in the final rule also includes a reference to the IAA, the UAA, and their implementing regulations.

We made a change from the NPRM to the definition of ''supervised provider,'' adding for clarity the term ''domestic or'' before the term ''foreign entity.''

We did not retain a definition of ''unregulated custody transfer'' (UCT) in the NPRM, in response to comments noting that States have jurisdiction over child welfare and protection matters, including what constitutes UCT and any practice standards relating to it.

Changes to Elements in Subpart B, Selection, Designation, and Duties of Accrediting Entities

Section 96.7 of the final rule retains the proposed revision in the NPRM requiring accrediting entities to retain all records relating to accreditation decision making for a period of 10 years. In response to comments, this final rule provides for the Secretary to extend the time accrediting entities must retain documents, but not shorten it to less than 10 years.

Section 96.8 of the final rule incorporates the proposed provisions establishing a new process for reporting accrediting entity fee schedule changes in the **Federal Register**.

The Department retained the proposed change to § 96.10 permitting a finding that accrediting entities are out of compliance for approving or accrediting an agency or person when the Secretary had to intervene and itself impose suspension, cancellation, or debarment of an agency or person.

Section 96.12 of the final rule retains the minor edits in the NPRM, but it remains in subpart C.

Changes to Elements in Subpart E, Evaluation of Applicants for Accreditation and Approval

In tandem with changes in section 96.7 as noted above, we retained in the final rule the proposed change to § 96.26 requiring accrediting entities to retain an accurate record of accreditation and approval decision making for at least 10 years, or longer if the Secretary requires it.

In § 96.27(e) the final rule incorporates a proposed change requiring accrediting entities to take into account in evaluating an application for accreditation or approval the reasons underlying a previous denial of accreditation or approval.

Changes to Standards in Subpart F, Standards for Intercountry Adoption Accreditation and Approval

We did not retain proposed changes to § 96.32 requiring agencies and persons to retain records related to the monitoring and oversight of supervised providers for a period of not less than 25 years. Several commenters expressed concern with the cost of implementing these provisions. On balance, the cost of creating and retaining such records for 25 years and potentially even longer could not be justified by the potential benefits.

Concerning the requirements in § 96.33(e) relating to the cash reserve of two months operating expenses, in the final rule we did not retain the proposed deletion of ''financial resources'' in this standard. Based on several public comments, we removed the reference to liquid assets. To avoid possible confusion or ambiguity as to these terms, the Department retained the existing CFR language in § 96.33(e).

Section 96.34 of this final rule mandates that compensation must not be unreasonably high but does not retain the proposed changes meant to take into account what services ''actually cost.'' Commenters found the proposed formulation too vague for accrediting entities to implement.

The Department accepted the recommendation by a commenter that several additional training topics be added to the list of topics in § 96.38. They relate to trauma-informed parenting, the impact of adoption on children already in the home, and parental support for children who experience discrimination based on race, physical, cognitive, and other disabilities.

Addressing questions raised in comments, section 96.41 of the final rule establishes that a complaint may be submitted by email, must include the name of the complainant and must be dated.

The final rule incorporates practical steps in § 96.47 for withdrawal of a home study recommendation that a family be found suitable to adopt abroad, including timelines for notifying adoptive parents, primary providers, and USCIS. The final rule does not retain proposed changes to § 96.52(a)(1) requiring extensive additional agency and person reporting to the Secretary and the foreign Central Authority about ''material facts'' of intercountry adoption cases.

III. Section-by-Section Discussion of Comments

This section provides a detailed discussion of significant comments received and describes differences between the NPRM and this final rule.

Subpart A—General Provisions

Section 96.2 Definitions

1. *Comment:* Several commenters suggest edits to the proposed definition of ''authorization'' to clarify that such permission from a Central Authority is for the ability to provide adoption services generally and not just for one specific adoption. The commenters also recommend deleting the last sentence of the definition suggesting it goes beyond the scope of defining the term.

Response: The final rule does not retain the proposed definition of ''authorization.'' It also does not establish a standard for foreign authorization. Where foreign countries require authorization to provide adoption services, agencies and persons are obliged to be in full compliance with the laws of that foreign country in accordance with the new section 96.30(e) in the final rule. For additional information, see the discussion relating to section 96.29, below.

2. *Comment:* One commenter expresses concern that the proposed revision to the definition of ''best interests of the child'' does not sufficiently reflect the provision of section 503(a) of the IAA (42 U.S.C. 14953(a)) that defers to State law unless such provisions are inconsistent with the Convention or the IAA. The commenter is concerned the phrase ''without reference to the law of any particular State'' is in direct conflict with the IAA's objective to defer to State law definitions whenever possible. The commenter recommends deleting this reference and if it is retained, that in addition to the Convention, a reference to the IAA should also be added. The commenter is also concerned that a reference to ''the object and purpose of the Convention'' could be interpreted to include provisions of other international conventions.

Response: The Department revised the definition of ''best interests of the child'' in the final rule to include a reference to the IAA, the UAA, and their implementing regulations to clarify that the revision does not include reference to any other international conventions. We have also removed the reference to ''without reference to the law of a particular State'' because we believe the intent of the regulation is clear without this specific reference. The Department does not agree that the new definition is inconsistent with the IAA. The value of the revised definition is that it provides useful information to agencies and persons about how to approach making determinations of the best interests of a child when the child is outside of any State jurisdiction. The definition affirms the central concept that in cases in which a State has jurisdiction to decide whether a particular adoption or adoption-related action is in a child's best interests, ''best interests of the child'' shall have the meaning given to it by the law of the State.

3. *Comment:* Some commenters are concerned the definition of ''best interests of the child'' does not appropriately acknowledge the role played by central or competent authorities in making best interest determinations for children in countries of origin. The commenters note such determinations usually require judicial approval.

Response: The revised definition does not impose duties on public foreign authorities, who are expected to act in accordance with their own laws, regulations, and practices. In this final rule, to the extent that accredited agencies and approved persons contribute to decisions or actions abroad regarding best interests of the child, the revised definition reinforces how the determination should be made. Section 96.2 of the regulations specifically defines one of the six adoption services as ''making non-judicial determinations of the best interests of the child and the appropriateness of an adoptive placement for a child.'' The Department recognizes the role played by the competent authority but does not agree this definition in the final rule conflicts with the role played by central or competent authorities in making a best interest determination for children. Rather, it clarifies the guiding documents an agency or person should use when providing this adoption service outside of a State jurisdiction.

4. *Comment:* One commenter proposes adding other people who could be party to a service agreement in accordance with § 96.44 to the definition of ''client,'' namely, birth parents in outgoing adoption cases. This commenter also recommends including the child who is being adopted in an outgoing adoption in the definition of ''client'' in § 96.2.

Response: Based on the public comments, we have withdrawn the definition of ''client.'' We agree that

only referencing prospective adoptive parents in the definition of client with respect to a service agreement may be unnecessarily limiting, particularly with respect to outgoing adoptions. Given the possible different parties that could be included as clients for the services agreement with an agency or person, the Department is not including a definition of ''client'' in § 96.2 of the final rule.

5. *Comment:* Several commenters raise concerns about the addition of a new definition of ''complaint'' in § 96.2 and its impact on § 96.41, procedures for responding to complaints and improving service delivery.

Response: The final rule does not add a definition of ''complaint.'' For comments and responses relating to the proposed definition of ''complaint'' together with a discussion of comments relating to responding to complaints and related procedures, see § 96.41, below.

6. *Comment:* Two commenters note the Department proposed changes to the definition of ''public foreign authority'' by adding ''a court or regulatory'' before ''authority operated by a national or subnational government of a foreign country'' but did not propose similar changes to the definition of ''public domestic authority.'' The commenters object to the difference and are concerned the differences could cause confusion, particularly the proposed changes to the definition of public foreign authority.

Response: In response to these comments the Department is not including in the final rule the revisions to definitions of ''public foreign authority'' and ''public domestic authority.'' The Department does not want to create confusion between the definitions of ''competent authority'' and ''public foreign authority'' as used in sections 96.12 and 96.14 which could make it more difficult to determine which entities require supervision.

7. *Comment:* Several commenters recommend the Department revise its definition of ''relative'' by using instead the list of relative relationships found in 8 CFR 204.309(b)(2)(iii).

Response: This final rule retains the NPRM definition of ''relative'' in § 96.2. The Department believes the § 96.2 definition of relative serves a purpose entirely different from the definition of relative found in DHS regulations at 8 CFR 204.309(b)(2)(iii). Although there is significant overlap in the two definitions, their differences are also significant. See Appendix A at the end of this notice showing how the two lists of relative relationships overlap and how they differ in approach.

The DHS regulation at 8 CFR defines which pre-existing familial relationships are exempt from the prohibition on prior contact between a prospective adoptive parent and the prospective adoptive child's parents, legal custodian, or other individual or entity who is responsible for the child's care. Additionally, the DHS regulation defines such relative relationships in terms of the prospective adoptive parent's relationship with the parent of the child to be adopted. In contrast, the Department's final rule definition of relative addresses relationships between the prospective adoptive parent(s) and the child to be adopted.

The relationships in the Department's definition of relative in § 96.2 include first- and second-degree relatives: parents and siblings and grandparents, aunts, uncles, nieces and nephews as well as analogous relationships through marriage and adoption. These are all familial relationships that a primary provider can more readily document to determine whether a prospective adoptive parent has a qualifying relationship for the alternative procedures for primary providers in § 96.100. Relatives beyond the second degree such as great-grandparents, great aunts, great uncles and first and second cousins may still adopt relatives. However, primary providers in these cases would be required to develop a service plan for all six adoption services and implement that plan in accordance with § 96.44.

8. *Comment:* Commenters raised the concern that adoptive parents who adopt a child could assert a relative relationship with that child on the basis of its adoption and thus avail themselves of the alternative procedures for adoption by relatives in § 96.100.

Response: The relationships within the definition of ''relative'' in § 96.2 must exist between the prospective adoptive parent and the child prior to initiating an adoption to be able to take advantage of the provisions in § 96.100. For greater clarity, we revised the definition of ''relative'' as follows: ''Relative . . . means *a prospective adoptive parent was already, before the adoption,* any of the following: parent, step-parent, etc. (emphasis added).''

9. *Comment:* One commenter is concerned that the addition of ''person or'' after ''foreign'' in the definition of ''supervised provider'' will cause ambiguity in the definition given that the phrase ''person'' is first referred to in the definition of supervised provider, without specific reference to ''foreign.'' The commenter suggests adding a reference to ''domestic'' in addition to ''foreign'' to clarify the definition.

Response: The Department has modified the definition of ''supervised provider'' to provide clarity. We included ''domestic or'' before the word ''foreign.''

10. *Comment:* Several commenters object to the phrase ''intent on severing'' in the proposed definition of ''unregulated custody transfer'' because it is ambiguous and does not explain how a parent's intention should be determined. Another commenter argues that the definition is unconstitutional because it treats parents by adoption differently from biological parents.

Response: The final rule does not contain a definition of ''unregulated custody transfer.'' Given that the States have jurisdiction over child welfare and protection matters and that some States have already defined UCT, we defer to the States to determine what constitutes UCT rather than propose a definition in this rule.

Subpart B—Selection, Designation, and Duties of Accrediting Entities

Section 96.4 Designation of Accrediting Entities by the Secretary

1. *Comment:* Several commenters are concerned the proposed addition of ''under § 96.5(b)'' to § 96.4(c) will result in adoption service providers losing the choice to select the accrediting entity that conducts their accreditation or approval.

Response: Section 96.4(b) is unchanged in the final rule and permits the Secretary's designation of an accrediting entity to include limitations on the accrediting entity's geographic jurisdiction or impose other limits on the entity's jurisdiction. For clarity, the final rule retains the minor proposed change in § 96.4(c), which connects the reference to a public entity in § 96.4(c) to the requirements relating to public entities in § 96.5(b).

Section 96.6 Performance Criteria for Designation as an Accrediting Entity

1. *Comment:* One commenter suggests the Department is revising § 96.6 to accommodate a specific accrediting entity.

Response: The Department made no changes in response to this comment. Rather than addressing any one specific entity, the requirements in § 96.6 outline the performance criteria any accrediting entity must demonstrate to the Secretary when it is seeking designation as an accrediting entity. The changes to § 96.6(c) and (d) clarify that an accrediting entity must demonstrate that it has the capacity to monitor and take appropriate adverse actions against agencies and persons, even if did not initially accredit or approve them. This change expands the performance criteria

that must be demonstrated by an entity seeking designation by the Department.

Section 96.7 Authorities and Responsibilities of an Accrediting Entity

1. *Comment:* A commenter noted in § 96.7(a)(4) that the Department changed the function of the accrediting entities from ''investigating'' complaints to ''reviewing'' complaints and asked for clarification of what review means in this context.

Response: The Department declines to further define ''review'' in the final rule. Clarification of the meaning of the term ''review'' is incorporated in the Memoranda of Agreement between the accrediting entities and the Department and figures prominently in the Department-approved accrediting entity policies and procedures relating to complaints.

2. *Comment:* Several commenters recommend the Department specify in the regulation that the Secretary could extend the time that an accrediting entity maintains all records related to its role as the accrediting entity.

Response: In response to these comments, § 96.7(a)(9) and § 96.26(d) of the final rule include a reference to ''longer if'' to clarify that ten years is the minimum amount of time for an accrediting entity to maintain its records, but the Secretary can extend it.

Section 96.8 Fees Charged by Accrediting Entities

1. *Comment:* Several commenters expressed the belief that the Department should require more transparency of an accrediting entity's costs to perform functions authorized by the Secretary by requiring it to make available, upon request from the public, its demonstration of compliance with § 96.8(a).

Response: The Department is not changing the rule to mandate that accrediting entities demonstrate to the public compliance with § 96.8 as this regulation addresses the factors the Department will consider, pursuant to Section 202(d) of the IAA, in deciding whether to approve an accrediting entity's proposed fee schedule. The language in the proposed rule for § 96.8(b) is the same in the final rule and requires the Department to publish proposed fee schedules in the **Federal Register** for public comment. The Department believes this will increase the transparency of an accrediting entity's fee schedules, particularly proposed changes, while also adhering to the requirements in the IAA.

2. *Comment:* Several commenters suggest that fees charged by accrediting entities should be refundable for services not rendered. Several commenters also recommend the Department add a provision prohibiting accrediting entities from charging additional fees for siblings.

Response: Section 96.8(c)(1) requires that the fees for accreditation and approval not be refundable. The Department is not changing this provision because we believe it protects an accrediting entity's capacity to perform its roles and functions required by law and its agreement with the Department, while remaining consistent with Section 202(d) of the IAA. The Department does not agree that a new provision should be added to restrict the possible fee structure for an accrediting entity; however, we encourage interested persons to utilize the public comment process outlined in § 96.8(b).

Section 96.10 Suspension or Cancellation of the Designation of an Accrediting Entity by the Secretary

1. *Comment:* Several commenters propose adding the word ''sufficient'' in front of evidence in § 96.10(c)(1).

Response: The Department is not making any changes in response to this comment because we do not agree ''evidence'' needs to be qualified in this standard. The procedures outlined in § 96.10(b) provide the accrediting entity with an opportunity to demonstrate that suspension or cancellation by the Secretary is unwarranted, in accordance with the agreement with the Department pursuant to § 96.9.

Subpart E—Evaluation of Applicants for Accreditation and Approval

Section 96.25 Access to Information and Documents Requested by the Accrediting Entity

1. *Comment:* One commenter is concerned the proposed change to § 96.25 is overly broad and should specify that the intent of ''deliberate destruction of documentation'' is to prevent an accrediting entity from accessing the documentation. Several commenters indicate support for the change but are concerned an accrediting entity could take adverse action against an agency or person for following its own document retention and disposition policy. These commenters recommend that an accrediting entity be required to provide notice specifying which documentation and information the agency or person must retain.

Response: Section 96.25(c) permits an accrediting entity to take appropriate adverse action against an agency or person based solely on an agency or person failing to provide requested documents or information to an accrediting entity. The final provision in § 96.25(c) permits an accrediting entity to take appropriate adverse action if the agency or person ''engages in deliberate destruction of documentation or provides false or misleading documents or information'' to an accrediting entity. An accrediting entity requires access to an agency or person's information and documents to perform its functions authorized by the Secretary. Section 96.25(a) outlines the access and § 96.25(b) limits the accrediting entity's access to Convention adoption files and cases subject to the UAA, with the exception of first-time applicants for accreditation or approval. The requirements in this regulation, along with § 96.42 on the retention, preservation, and disclosure of adoption records, provide sufficient information for an agency or person about the disclosure requirements to an accrediting entity.

With regard to adverse action, section 96.76 outlines the procedures governing adverse action by an accrediting entity. These procedures would guide an accrediting entity's procedures for taking appropriate adverse action based on § 96.25(c).

The Department has modified § 96.25(c) in the final rule to clarify that the deliberate destruction of documentation relates to the documents or information requested by the accrediting entity that requires or requests the documentation to evaluate an agency or person for accreditation or approval and to perform its oversight, enforcement, renewal, data collection, and other functions.

Section 96.26 Protection of Information and Documents by the Accrediting Entity

1. *Comment:* Several commenters disagree with adding ''foreign'' to § 96.26(b) because they do not think an accrediting entity should make disclosures of information and documents to a foreign authority unless such disclosure falls into a circumstance outlined in § 96.26(b). The commenters suggest such disclosures to a foreign authority be coordinated through the Department of State.

Response: We have made a change to § 96.26(b) by removing the term ''foreign'' as recommended. This change clarifies that documents and information may not be disclosed by an accrediting entity to a foreign authority unless the disclosure meets the circumstances outlined in § 96.26(b)(1) through (3).

2. *Comment:* Several commenters are concerned § 96.26(d) would limit the requirements for an accrediting entity to

maintain accurate records. The commenters suggest this could weaken the Department of State's oversight of an accredited entity.

Response: Section 96.26(d), formerly the last sentence of § 96.26(c), clarifies the minimum period for an accrediting entity to maintain complete and accurate records of all information it receives related to an agency or person and the basis for accrediting entity decisions concerning the agency or person. The Department has made a change to clarify that the Secretary will only lengthen, not shorten, the requirement for an accrediting entity to maintain a complete and accurate record of all information it receives related to an agency or person, and the basis for an accrediting entity's decisions concerning the agency or person.

3. *Comment:* Several commenters suggest requiring an accrediting entity to disclose to an agency or person any information or records the accrediting entity uses as the basis of an adverse action.

Response: We did not make any changes in response to this comment. The Department did not propose changes to subpart K, which includes procedures and responsibilities of an accrediting entity for decisions leading to the imposition of adverse action.

Section 96.27 Substantive Criteria for Evaluating Applicants for Accreditation or Approval

1. *Comment:* Several commenters are concerned that removing the word ''only'' from § 96.27(c) would allow an accrediting entity greater flexibility and discretion, outside the scope of subpart F, when evaluating applicants for accreditation or approval.

Response: To avoid any confusion about how the standards are applied, we have not included the proposed changes to § 96.27(c) in the final rule.

Subpart F—Standards for Convention Accreditation and Approval

Section 96.29 Compliance With All Applicable Laws

1. *Comment:* Commenters object to the provisions in the proposed § 96.29(a) requiring that an agency or person has not provided any adoption service without accreditation or approval, or as an exempted or supervised provider. Commenters also object to the proposed requirement that an agency or person demonstrate it has not provided any adoption services in a foreign country without authorization. In addition, commenters point out that these prohibitions are not constrained in time, not limited in terms of pre- or post-IAA or Convention, nor do they contemplate how agencies and persons must document their compliance.

Response: The Department is reorganizing the material in § 96.29 and has removed the proposed § 96.29(a) from subpart F. The provisions in the proposed § 96.29(b) are already included in § 96.25 where issues relating to an accrediting entity's access to information and documents are found. The parts of the proposed § 96.29(c) and (d) relating to compliance with the laws of jurisdictions where agencies and persons provide adoption services are now retained in § 96.30(e). For information about disposition of provisions in the proposed § 96.29 relating to foreign country authorization in line with Convention Article 12, see comment 4, below.

2. *Comment:* Several commenters are concerned with the provisions in the proposed § 96.29(d) concerning compliance with the laws of each jurisdiction in which an agency or person operates. They state that foreign laws are often vague or contradictory and compliance is difficult to achieve. Some also note that even when laws are clear, some countries of origin lack the infrastructure to act on them quickly enough to meet urgent needs of children waiting for intercountry adoption placements.

Response: The requirement for agencies and persons to act in compliance with all applicable laws tracks closely with the minimum requirements of the accreditation regulations in the IAA found in Section 203(b)(1)(F) (42 U.S.C. 14923(b)(1)(F)): ''The agency has established adequate measures to comply (and to ensure compliance of theirs and clients) with the Convention, this chapter, and any other applicable law.'' To clarify the provisions relating to compliance with all applicable laws, the final rule includes the first sentence of the proposed language of § 96.29(d) as new section 96.30(e).

3. *Comment:* Several commenters note that even when laws in some countries of origin are known there may be different interpretations of laws as well as waivers or exceptions that may be informally permitted and unevenly administered. These factors make it difficult to determine compliance with applicable foreign laws. Commenters recommend that issues of compliance with foreign laws be referred to law enforcement, noting further their belief that it is not an accrediting entity role to unilaterally determine if an agency has violated a law. The commenters question the practicality of expecting accrediting entities to have and maintain expertise in domestic and foreign law.

Response: The IAA gives accrediting entities the responsibility to assess agency and person substantial compliance with accreditation standards, which include requirements to comply with applicable foreign laws. Law enforcement concerns may emerge in the context of an accrediting entity's accreditation, approval, or monitoring and oversight of an agency or person and, where appropriate, the agency's or person's conduct may be referred to law enforcement entities for investigation and possible prosecution. The role of law enforcement is separate from that of an accrediting entity, which is to provide monitoring and oversight of an agency's or person's compliance with standards for accreditation and approval.

4. *Comment:* Several commenters observe that the proposed rule introduces a new standard in the proposed §§ 96.29(a), (c), and (d) requiring foreign country authorization to provide adoption services in countries requiring such authorization. They note that determining country of origin authorization requirements can be difficult.

Response: The Department removed the specific references to foreign country authorization in the final rule. However, if a country of origin requires authorization in the context of obligations under Article 12, an agency or person must obtain such authorization to comply fully with the laws of the foreign country where they or it operates.

Licensing, Compliance With Applicable Laws, and Corporate Governance

Section 96.30 State Licensing and Compliance With All Applicable Laws

The Department is revising the heading associated with this Section and adding § 96.30(e), formerly the first half of the proposed § 96.29(d).

Section 96.32 Internal Structure and Oversight

1. *Comment:* Many commenters oppose the proposed retention requirements for records relating to the selection, monitoring, and oversight of foreign supervised providers, financial transactions to and from foreign countries, and records relating to complaints. The commenters are concerned this new requirement will significantly increase the costs to an agency or person to comply with the new standard for document retention. Several commenters note § 96.42

includes the requirements for the retention, preservation, and disclosure of adoption records. The commenters note the retention requirement in § 96.42 for adoption records defers to applicable State law, which may require adoption records be retained permanently. Several commenters are also concerned that the change to the standard could violate State laws in some jurisdictions.

Response: In response to public comments, the final rule does not include the provision in § 96.32(c) of the NPRM. The final rule continues to require the agency or person to keep permanent records of the meetings and deliberations of its governing body and of its major decisions affecting the delivery of adoption services.

Financial and Risk Management

Section 96.33 Budget, Audit, Insurance, and Risk Assessment Requirements

1. *Comment:* Commenters want the term ''liquid assets'' removed from the proposed changes to § 96.33(e) because ''liquid assets'' are already included in the standard, as ''liquid assets'' are a type of asset. The commenters suggest using the term ''or other assets,'' which is inclusive of liquid assets. Commenters are also concerned that emphasizing liquid assets will make it more difficult for smaller agencies and persons to keep sufficient assets liquid and in reserve.

Response: The final rule does not include the proposed reference to liquid assets. Also, the final rule does not retain the proposed deletion of ''financial resources.'' To avoid possible confusion or ambiguity as to these terms, the Department retained the existing CFR language in § 96.33(e).

2. *Comment:* Several commenters recommend the reserve requirement should apply only to an agency or person's intercountry adoption work. These commenters note that it is more challenging for agencies and persons that operate non-adoption programs to meet the reserve requirement of the standard.

Response: We have not included limiting the cash and other asset reserves solely to an agency or person's intercountry adoption programs. The reserve provisions are meant to protect prospective adoptive families by considering the financial viability of the entire organization, including where the agency or person engages in other work beyond intercountry adoption.

3. *Comment:* One commenter requests the Department clarify why it is moving the last sentences of § 96.33(e) to a new section, § 96.33(f). The commenter notes if an agency or person ceases to provide or is no longer permitted to provide adoption services in intercountry adoption cases, the transfer plan required by the standard is not enforceable. The commenter notes agencies and persons are increasingly unwilling to accept transfer cases due to concerns that the agency or person may be found out of substantial compliance with the regulations. The commenter suggests the Department should play a greater role helping agencies and persons to transfer adoption cases and records.

Response: Section 96.33(f) remains unchanged from its formulation in the proposed rule. The standard requires an agency or person to have a plan to transfer its intercountry adoption cases if it ceases to provide or is no longer able to provide adoption services in intercountry adoption cases. Making a transfer plan benefits adoptive families in the process of adopting because it includes provisions for reimbursement to them of funds paid for services not yet rendered. For purposes of clarity, we have included this standard in its own section. The Department's role when an agency or person is unable to transfer its intercountry adoption cases consistent with its plan is outlined in §§ 96.7 and 96.77.

Section 96.34 Compensation

1. *Comment:* Several commenters request clarification about the meaning of a ''plan to compensate'' in § 96.34(a). These commenters recommend that the Department use the phrase ''or offers to compensate'' to clarify the requirement of the standard.

Response: We have modified § 96.34(a) to clarify that any payment or offer of payment that includes an incentive fee or contingent fee for a child placed for adoption is not in compliance with this standard. The final rule broadens the requirement to ensure that any individual or entity involved in an intercountry adoption is not compensated with an incentive fee or contingent fee for a child located or placed for adoption. The final rule addresses known practices to circumvent this limitation on the payment of incentive and contingent fees.

2. *Comment:* In several sections of the proposed rule commenters expressed uncertainty of our meaning when we inserted the term ''or entity'' after the word ''individual.''

Response: The Department made no change in response to the comments regarding use of the terms ''individual'' or ''entity.'' In their common usage, the terms differentiate between a single person—an individual—and a group of individuals such as a corporation or agency—an entity. This distinction helps to clarify that the compensation limits in § 96.34 have broad application.

3. *Comment:* In § 96.34(d), commenters oppose the proposed formulation ''what such services actually cost'' in the country for lack of clarity, particularly regarding who determines what services actually cost in every country program. The commenters also point out that what a service costs is influenced by many factors, and that it will be difficult for an accrediting entity to determine actual costs given the variables involved.

Response: The standard in § 96.34(d) relates to avoiding unreasonably high fees, wages or salaries paid to directors, officers, employees, and supervised providers along with any other individual, or entity involved on behalf of an agency or person. The Department has not retained the proposed phrase ''what services actually cost,'' including instead ''taking into account the country in which the services are provided and norms for compensation within the intercountry adoption community in that country, to the extent that such norms are known to the accrediting entity.'' This standard provides several factors to consider in making such a determination including, the country, the location, number, and qualifications of staff, workload requirements, budget, and the size of the agency or person (such as a for-profit organization).

Ethical Practices and Responsibilities

Section 96.35 Suitability of Agencies and Persons To Provide Adoption Services Consistent With the Convention

1. *Comment:* A commenter requests clarification as to whether the new disclosure requirement in § 96.35(b)(6) relates to investigations by foreign authorities that are known to an agency or person.

Response: Section 96.35(b)(6) adds a new element to the disclosure requirement relating to any known past or pending investigations by foreign authorities.

2. *Comment:* A commenter raised a concern about a disclosure requirement in § 96.35(b)(7) that an agency of person must disclose ''any instances where the agency or person has been found guilty of any crime under Federal, State, or foreign law . . .'' The commenter pointed out that in some criminal cases a defendant may be permitted by the court to enter a plea of *nolo contendere* resulting in a conviction, but without

admission or finding of guilt. The commenter was concerned that an agency or person may have been convicted of illicit activity without being found guilty and would not be under obligation to disclose the conviction.

Response: The Department made no changes to this section. We decline to look behind the court's acceptance of the nolo contendere plea. Only those convictions in which an agency or person is found guilty of a crime requires disclosure under § 96.35(b)(7). We note that other parts of § 96.35, *i.e.,* paragraphs (b)(9) and (c)(1), may require disclosure of conduct of concern that leads to a conviction even without specifying guilt, or that is inconsistent with the principles of the Convention.

3. *Comment:* One commenter is concerned the proposed change in § 96.35(b)(9) from activities that ''are'' inconsistent with the principles of the Convention to activities that ''may be'' inconsistent could create ambiguity for an agency or person about the disclosures required by this standard.

Response: The Department removed the proposed changes to ''may be'' in §§ 96.35(b)(9) and 96.35(c)(4) replacing them with ''are.''

4. *Comment:* Commenters are concerned in § 96.35(c)(2) that the broader language requiring disclosure of employees with formal disciplinary actions or known investigations might be too broad because it would include employees who are not involved in the adoption process. One commenter suggests the new standard would require an agency or person to disclose to an accrediting entity any disciplinary actions, such as reporting late to work.

Response: The Department has revised the standard to revert to the language limiting the section to senior management positions but has retained the language adding formal disciplinary actions. Disciplinary action taken against employees at any level relating to lateness for work would fall outside the scope of these changes because they are not related to financial irregularities. Furthermore, the scope of these changes in this section is likely to reassure prospective adoptive parents that agencies and persons do due diligence across their entire organization to detect and address financial irregularities by senior management.

Section 96.36 Prohibition on Child Buying and Inducement

1. *Comment:* Some commenters are concerned the proposed changes to § 96.36(a) would restrict agencies and persons from remitting reasonable payments for activities related to the adoption as outlined in the current § 96.36(a) as long as such payments are permitted by the child's country of origin and are not remitted as a payment or inducement to release the child. One commenter states that this change would prohibit an agency or person from making reasonable payments to address often severe medical needs for a child who had already been matched with prospective adoptive parents. The commenter notes that prohibiting such payment could be harmful to the best interests of a child.

Response: In response to these comments, the Department has revised § 96.36(a), reintroducing the deleted portion relating to ''reasonable payments.'' We have also retained language in § 96.36(a) clearly prohibiting agencies and persons from ''giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child.'' As we noted in 71 FR 8063, February 15, 2006, ''This standard, derived from the current, longstanding DHS regulations at 8 CFR 204.3, protects birth parents, children, and adoptive parents. Regardless of how adoption services fees are described, characterized, or classified, if the fee is remitted as payment for the child, or as an inducement to release the child, then the standard is violated and appropriate action may be taken against an agency or person.'' This standard is also consistent with DHS regulations at 8 CFR 204.304, which prohibit in Convention cases the improper inducement or influence of any decision concerning the placement of a child for adoption, consent to the adoption of a child, relinquishment of a child for purposes of adoption, or performance of any act by the child's parents that make the child eligible for classification as a Convention adoptee.

2. *Comment:* Commenters point out that the term ''inducement'' (found in both the current and proposed regulations at § 96.36(a)) is not defined in these regulations and suggests that the Department include a definition for this term that makes clear it would only be prohibiting ''illicit'' inducement.

Response: The Department made no changes in response to these comments. Inducement in the context of this rule and in the DHS regulations governing the intercountry adoption of children from non-Convention countries under section 101(b)(1)(F) of the Immigration and Nationality Act (INA) (8 CFR 204.3(i)) and governing Convention adoptions under INA 101(b)(1)(G) (8 CFR 204.304(a)) refer to ''the act of influencing an act or decision'' and clearly encompasses the illicit conduct that the IAA and the Convention seek to eradicate. Whatever other benign meanings the term may have clearly do not apply here. The heading to § 96.36 already unambiguously employs the term ''inducement,'' associating it with the term ''child buying,'' leaving no question that ''inducement'' here refers to illicit conduct.

3. *Comment:* A commenter is concerned that the term ''agent'' has been too broadly interpreted and recommended we provide additional clarification.

Response: To refine the standard in § 96.36(b), the Department added the term ''supervised'' and removed the term ''and agents'' from the section. These changes are consistent with the definition of ''supervised provider'' in § 96.2, which makes clear that ''agents'' are encompassed in the meaning of supervised provider.

Professional Qualifications and Training for Employees

Section 96.37 Education and Experience Requirements for Social Service Personnel

1. *Comment:* One commenter is concerned with the reference to ''counseling'' in § 96.37(a) and recommends changing it to ''assessment'' to more accurately reflect the services provided by agencies and persons.

Response: Apart from adding a heading to § 96.37(a), the Department did not propose a substantive change to this standard. Section 96.37(a) applies to employees of an agency or person with appropriate qualifications and credentials to perform work requiring application of clinical skills and judgment. This standard does not require that an agency or person have employees that provide all of the adoption-related social service functions outlined in § 96.37(a), but it does require that if an agency or person uses employees for such functions, that any such employee have the appropriate qualifications and credentials to perform functions requiring clinical skills and judgment, counseling among them.

2. *Comment:* A commenter suggests that the proposed change to § 96.37 adding ''training'' to the standard is duplicative of the training requirements for social service personnel in § 96.38 and should be deleted.

Response: The Department has retained the proposed change to § 96.37(c) thus expanding the existing standard to include training in the

professional delivery of intercountry adoption services for the agency or person's executive director, the supervisor overseeing a case, or the social service employee providing adoption-related social services that require the application of clinical skills and judgment. This aspect of the standard is not addressed in other areas of the regulations.

3. *Comment:* One commenter requests clarification about why the Department proposes to include headings for § 96.37(a), (b), and (c) and if the headings provide a change to the meaning of the standard.

Response: Section 96.37 has four paragraphs with headings. The Department added headings to the other parts of the standard to enhance clarity, not to change the underlying meaning of the existing regulation.

Section 96.38 Training Requirements for Social Service Personnel

1. *Comment:* One commenter seeks clarification as to whether in accordance with § 96.38(d) an agency or person has the discretion to exempt newly hired employees as it relates to § 96.38(b). Also, the commenter thinks the use of the term ''exemption'' in the context of this section needs clarification.

Response: We have modified § 96.38(d) to make it clear that an agency or person may, but is not required to, exempt newly hired employees from elements of the orientation and initial training required in paragraphs (a) and (b) of this section. Such an exemption is only permitted if the newly hired employee was employed by an agency or person within the last two years and received the training requirements outlined in §§ 96.38, 96.39, and 96.40. Note that any exemption under § 96.38(d) is made solely by the employing agency or person, who have no need to seek such exemptions from another entity. We use this term ''to exempt'' or ''exemption from'' to mean ''relieved from requirements'' elsewhere in this or other training sections of the rule.

2. *Comment:* A commenter suggests adding in § 96.38(b) several new areas for training social service personnel and recommends adding several additional topics to the standard.

Response: The Department revised the list of topics to include additional training requirements for social service personnel.

3. *Comment:* A commenter asks why the Department employed the term ''*sociological* . . . problems'' in § 96.38(b)(7) and asked for clarification, particularly related to the proposed language related to the possibility that such problems may not be reflected in the medical reports transmitted to prospective adoptive parents.

Response: The Department revised the final rule by removing the term ''*sociological*'' from § 96.38(b)(7), relying on the remaining elements of this section to inform training relating to medical and psychological problems experienced by children and the possibility that such problems may not be reflected in the medical reports transmitted to prospective adoptive parents.

Information Disclosure, Fee Practices, and Quality Control Policies and Practices

Section 96.39 Information Disclosure and Quality Control Practices

1. *Comment:* Some commenters think the new provisions in § 96.39(a)(1) are unduly burdensome for agencies and persons to disclose detailed fee information about supervised and exempted providers to prospective adoptive parent(s) on initial contact.

Response: In response to these comments, the Department has made several revisions to § 96.39 in the final rule. The final rule requires an agency or person to fully disclose to the general public and prospective client(s) the supervised providers in the United States and in the child's country of origin with whom they can expect to work and the usual costs associated with their services.

Responding to Complaints and Records and Report Management

Section 96.41 Procedures for Responding to Complaints and Improving Service Delivery

1. *Comment:* Several commenters raise concerns that the new definition of ''complaint'' and the changes in § 96.41(b) will increase the number of complaints and require significantly more disclosures to the Department pursuant to § 96.41(f). Commenters also state that the proposed changes expand the scope of complaints and would require agencies and persons to accept complaints from any individual or entity, even about matters unrelated to their intercountry adoption practice.

Response: The Department withdraws the proposed definition of ''complaint'' and the proposed changes to § 96.41(b), retaining a reference to written or electronic and dated complaint submissions (by email or facsimile) in which the complainant is clearly identified. These changes recognize the validity of electronic forms of complaint and the value of complaints from birth parents, prospective adoptive parents, adoptive parents, or adoptees. Tracking and summarizing the complaints received pursuant to § 96.41(b) provides useful information regarding trends to agencies and persons, accrediting entities, and the Department.

2. *Comment:* Several commenters object to removing the language in § 96.41(b) that agencies and persons accept complaints from a complainant ''that he or she believes raise an issue of compliance with the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA.'' The commenters also raise concerns about the proposed definition of complaint in § 96.2, noting that its formulation used ''*may raise* an issue of non-compliance with the Convention, the IAA, the UAA, or the regulations implementing the IAA and the UAA,'' was different from the reference in § 96.41(b) of ''*he or she believes* raise an issue of compliance.'' The commenters are concerned that the use of ''may raise'' in the definition along with the perception that individuals and entities could submit complaints directly to the Department would sidestep the process for filing complaints outlined in §§ 96.69–71.

Response: To improve clarity, the final rule does not include a definition of complaint in § 96.2. The final rule includes the reference to and most of the revisions to § 96.41(b) (as noted in its response to comment 1, above) returning to the formulation ''he or she believes raise an issue of. . . .''

3. *Comment:* One commenter expresses concern that the changes to § 96.41(b) and to the new definition of complaint would permit complaints filed by anyone electronically without identifying the complainant. As written, this commenter thinks the changes would encourage anonymous complaints and that agencies and persons would be required to, but unable to, respond to such complaints.

Response: In the final rule, the Department provides for electronic submission of complaints without a written signature to facilitate use of electronic means of communication while at the same time adding clear requirements to the standard in § 96.41(b) that each complaint must be dated and identify the complainant.

4. *Comment:* A commenter believes provisions in the proposed complaint definition allow for filing complaints directly with an accrediting entity, the Department, and even the Complaint Registry, which would create a direct contradiction to §§ 96.69(b) and 96.71(b)(1). Section 96.69(b) requires complainants who are parties to a specific intercountry adoption case to first file a complaint and attempt to seek

resolution with an agency or person before filing with the Complaint Registry.

Response: We have withdrawn the new definition of complaint from the final rule, which removes the changes noted above that the commenter found suggestive of being contrary to the complaint procedures found in §§ 96.69 and 96.71.

Section 96.42 Retention, Preservation, and Disclosure of Adoption Records

1. *Comment:* One commenter, while not opposed to the revision, asked why it was necessary to include a reference to State law in § 96.42(b).

Response: The Department added a reference to State law because the proposed rule broadens the disclosure requirements by deleting ''non-identifying'' from ''information.'' Section 401(c) of the IAA mandates that applicable State law govern the disclosure of adoption records and State law may limit the information an agency or person may make available to an adoptee or adoptive parent(s) of minor children.

Section 96.43 Case Tracking, Data Management, and Reporting

1. *Comment:* Several commenters request the Department add ''whenever possible . . .'' for information and reports on disruptions in § 96.43(b)(3) as it is in the rule for dissolutions in § 96.43(b)(4). The commenters maintain obtaining the requested information is difficult, particularly when adoptive parents are unwilling to provide the information to the agency or person.

Response: In response to public comments, the final rule reflects the removal of all proposed changes to § 96.43. Cooperation between the Department, the accrediting entities, and agencies and persons in recent years with regard to adoption instability matters, including reporting on disruption cases, has proven to be robust and effective. The proposed expanded reporting for disrupted placements includes information that is often already provided by agencies and persons reporting on disrupted placements.

2. *Comment:* Several commenters note that removing the phrase ''set forth in the country of origin,'' in § 96.43(b)(6) significantly broadens the scope of information agencies and persons will be required to provide the Department. The commenters also note agencies and persons would need time to comply with the reporting requirement due to the proposed significant changes to § 96.40.

Response: The final rule reflects the removal of all proposed changes to § 96.43 and continues to reflect the annual reporting requirement in section 104(b)(7) of the IAA. (42 U.S.C. Ch 143 § 14914 (b)(7)).

Service Planning and Delivery

Section 96.45 Using Supervised Providers in the United States

1. *Comment:* Several commenters are concerned with the proposed changes in § 96.45(a)(2) requiring supervised provider compliance with the Convention, the IAA, the UAA, and their implementing regulations. One commenter thinks the proposed regulation is overly broad and tantamount to requiring supervised providers to become accredited to comply with the standard. The commenter recommends limiting the provision as follows: ''In providing any adoption service, complies with the relevant section of the Convention, the IAA, the UAA, and regulations implementing the IAA and UAA for the adoption service being provided.''

Response: The Department modified the final rule to reflect this suggested language.

2. *Comment:* One commenter, pointing to proposed changes to § 96.45(b)(9), is concerned the changes would expose a supervised provider in the United States to requests for information from accrediting entities with no jurisdiction over the accreditation or approval of the primary provider. Such inquiries would be burdensome and lack authority.

Response: In response to this comment, the Department is adding clarifying information about a requesting accrediting entity's jurisdiction. With more than one accrediting entity, an accrediting entity could be responsible for monitoring and oversight of a primary provider, even though it was not the accrediting entity to issue the primary provider's accreditation or approval. The final rule reflects this requirement for supervised providers to respond to an accrediting entity's request for information. However, we have modified the rule to add ''. . . *or an accrediting entity with jurisdiction over the primary provider*'' to § 96.45(b)(9) to clarify that the requesting accrediting entity must have jurisdiction over the primary provider.

Section 96.46 Using Providers in Foreign Countries

1. *Comment:* Commenters remarked that the proposed rule stated the Department would not propose changes to the regulations relating to foreign supervised providers but in fact made a few changes to § 96.46.

Response: The Department noted in its preamble to the proposed rule [3] that it was not addressing regulatory changes to accreditation standards relating to foreign supervised providers. Instead, the preamble pointed to a consultative process with stakeholders to address a wide range of related standards. Most of the changes introduced in the proposed rule in § 96.46 were minor corrections or clarifications. The one substantive change in this section, found in § 96.46(b)(7) and (8), requires the primary provider to include in the agreement with foreign supervised providers that the foreign supervised provider's fees and expenses will be billed to and paid by the client(s) through the primary provider. This change prohibits foreign supervised providers from requiring direct payments for adoption services abroad from prospective adoptive parents, which would expose them to potential abuses such as overcharging.

2. *Comment:* A commenter points out the benefit of requiring all foreign fees to be paid through the primary provider to mitigate the potential for fraud and illicit financial practices, but also notes the need to preserve provisions lost to the removal of § 96.46(b)(8), provisions for refundability of fees paid overseas.

Response: The Department included in the final rule a provision in § 96.46(b)(7) requiring the primary provider to provide a written explanation of how and when such fees and expenses will be refunded if the service is not provided or completed and will return any funds collected to which the client(s) may be entitled within sixty days of the completion of the delivery of services.

3. *Comment:* Several commenters recommend removing the new provisions in § 96.46(b)(7). They think requiring primary providers to bill prospective adoptive parents for and pay fees directly to foreign supervised providers is inefficient and would unnecessarily add administrative costs to prospective adoptive parents for making wire transfers on their behalf. The commenters observe this would limit families using other payment options open to them such as domestic wire transfers or domestic checking. These commenters recommend allowing prospective adoptive families to take care of their own wire transfers to pay for fees in country, including those due to foreign supervised providers. Other commenters question the stated premise on which the change was based, namely

[3] 85 FR 74497, November 20, 2020.

that it was meant to protect adoptive families from transporting large sums of cash to countries of origin. These commenters argue that transporting cash to is no longer standard practice and that adoptive families typically use bank wire transfers instead.

Response: The Department retained the changes in § 96.46(b)(7) in the final rule. This standard applies only to fees and expenses related to providing adoption services. These services are enumerated in the supervisory agreement between the primary provider and the foreign supervisor, pursuant to § 96.46(b)(1). Fees and expenses for other services in the country of origin may be paid for directly by prospective adoptive parents. The elements in this standard reinforce in an important way the supervisory relationship between primary providers and foreign supervised providers as they require active primary provider oversight of the receipt and expenditure of funds relating to adoption services provided abroad.

Standards for Cases in Which a Child Is Immigrating to the United States (Incoming Cases)

Section 96.47 Preparation of Home Studies in Incoming Cases

1. *Comment:* A commenter recommends deleting ''counseling'' from § 96.47(a)(3). The commenter thinks this change would bring § 96.47(a)(3) into closer alignment with 8 CFR 204.311(c)(5), (c)(8), (c)(9), and (g)(4).

Response: In response to this comment, the Department revised § 96.47(a)(3) to include the language ''preparation'' in addition to ''counseling'' and ''training.'' Counseling, where indicated, may inform the home study, whether provided by a home study preparer licensed to provided formal counseling, or when the family is referred to a different professional licensed to provide it. Preparation would include a wide variety of work provided by the home study preparer short of formal counseling for which a separate license would be required.

2. *Comment:* Several commenters are concerned about the requirement in § 96.47(e)(1) to inform the prospective adoptive parent(s) prior to USCIS if the agency or person withdraws its recommendation of the prospective adoptive parent(s) for adoption. In their view, to provide for the child's safety, it may be in the best interests of the child to notify USCIS first.

Response: The Department made no revisions to the order in which agencies and persons must notify prospective adoptive families and USCIS of their withdrawal of a recommendation in favor of the family adopting. We did add the primary provider as an additional entity to notify, if appropriate. The notification requirements in § 96.47(b)(1) and (2) allow expeditious notification of prospective adoptive parents and USCIS. An agency or person is not required to wait five business days to provide adoptive families with written notice of the withdrawal, just that it do so within five business days of its decision to withdraw. Likewise, the regulation does not insist that an agency or person wait five days before notifying USCIS. In practical terms, once the agency or person decides to withdraw its recommendation of the family to adopt, it can notify the family in writing immediately following the decision and can notify USCIS in writing immediately thereafter, causing no delay that would be contrary to the best interests of the child.

3. *Comment:* A commenter is concerned that § 96.47(e) is unclear as to what involvement and responsibilities a primary provider would have if it was not the entity that conducted or approved the home study.

Response: The Department is revising § 96.47(e) to include notification of the primary provider in the case. Because the primary provider as identified in § 96.14 is responsible for ensuring the six adoption services are provided in an intercountry adoption case as provided in § 96.44, notification is essential to its ability to perform its overarching function in the case. We also revised § 96.47(e)(1) in the final rule to require the agency or person, if applicable, to make reasonable efforts to also notify the primary provider of its withdrawal of any approval of the home study.

4. *Comment:* Many commenters recommend the Department remove ''good cause'' from § 96.47(e)(3).

Response: The Department removed the reference to ''good cause'' from the final rule and revised § 96.47(e)(3) to require that an agency or person maintain written records of the withdrawal of its recommendation and/or approval, the step(s) taken prior to reaching such a decision, and the reasons for the withdrawal.

5. *Comment:* Several commenters believe the proposed language in the proposed § 96.47(e)(4) and (5) is repetitive of other provisions applicable to home studies and should be omitted.

Response: The Department removed § 96.47(e)(4) and (5) from the final rule in response to these comments.

Section 96.49 Provision of Medical and Social Information in Incoming Cases

1. *Comment:* A commenter requests the Department revise the reference to videotape and photograph to video and photo to make it clear the standard also includes digital videos and photographs.

Response: The Department replaced all references to the term ''videotape'' with the term ''video'' in § 96.49 in the final rule but did not revise the term ''photographs.'' The Department believes the term ''photographs'' is inclusive of photographs taken with film or digitally.

§ 96.51 Post-Adoption Services in Incoming Cases

1. *Comment:* Several commenters are concerned that a dissolution could occur years after the adoption is finalized and any cost schedule would be obsolete. In addition, there are concerns this regulation would force ASPs to be experts in the laws of all 50 states where a dissolution could take place.

Response: The Department did not retain a requirement to provide the cost for post-adoption services for all agencies and persons. The rule requires agencies and persons to inform prospective adoptive parents whether post-adoption services will be provided. Section 96.40 requires agencies and persons, before providing any adoption services, to provide expected total fees and expenses for post-placement and post-adoption reports. The Department encourages agencies and approved providers to assist adoptive families by providing post-adoption services where possible. Section 96.51(c) requires agencies and persons to provide post-adoption reporting in the adoption services contract if such reporting is required by a child's country of origin.

Section 96.52 Performance of Communication and Coordination Functions in Incoming Cases

1. *Comment:* Several commenters note the proposed changes in § 96.52(a)(1) would significantly increase reporting requirements for agencies and persons and that the new reporting requirements to U.S. and foreign Central Authorities are either already part of other reporting standards or not required by foreign authorities.

Response: In response to the comments about the proposed changes to § 96.52(a)(1), the final rule reflects removal of the proposed new requirements in § 96.52(a)(1).

2. *Comment:* One commenter notes the addition of ''including any updates

and amendments'' to § 96.52(b)(1) should be further clarified by adding ''when requested or required'' by the relevant Central Authority. The commenter is concerned that if the Central Authority does not require such updates, the additional information could overwhelm Central Authorities and add costs for clients if the updates or amendments require translation.

Response: In response to this comment, the Department revised § 96.52(b)(1) to include ''any updates required by such competent authorities in the child's country of origin.'' Agencies and persons must provide Central Authorities with the most up-to-date suitability information on the prospective adoptive parent(s).

3. *Comment:* One commenter notes the requirements under § 96.52(b)(4) is an action performed by the Department, not the agency or person, and should be deleted.

Response: The Department did not delete this section. Section 96.52(b) retains the flexibility of the phrase ''the agency or person takes all appropriate measures, consistent with the procedures of the U.S. Central Authority and the foreign country.'' The Department has revised the final rule to clarify that this action could be to ''confirm that this information has been transmitted to the foreign country's Central Authority or other competent authority by the U.S. Central Authority.'' Providing this communication and coordination is important to ensuring that the Convention process is followed and to avoid unnecessary delays in the process.

4. *Comment:* One commenter observes that the requirement of § 96.52(d) is about an outdated practice related to the cost of replacing hard copies of home studies. The commenter notes this requirement of returning an original home study and/or the original child background study to the authorities that forwarded them is unnecessary.

Response: The Department revised this standard in the final rule relying on agencies and persons to determine the appropriate course of action for disposition of case documents in the event the transfer of the child does not take place. Factors to consider include but are not limited to, the specific requirements, if any, of competent authorities in either the State or in the receiving country and the preference of prospective adoptive parent(s) to continue pursuing an adoption.

5. *Comment:* One commenter notes § 96.52(e) is overly broad and that a violation of any standard in Subpart F would also include a violation of § 96.52(e).

Response: We have made no changes in the final rule in response to this comment about section 96.52(e). This final rule clarifies that the obligation in § 96.52(e) only applies to requirements that the Secretary has identified under existing authorities and made known (directly or via an accrediting entity) to agencies and persons.

Standards for Cases in Which a Child is Emigrating From the United States

Section 96.55 Performance of Convention Communication and Coordination Functions on Outgoing Convention Cases

1. *Comment:* One commenter is concerned that in § 96.55(c) the use of the word ''original'' in this context is outdated and asks why this standard only applies to the home study and child study and not other documents.

Response: The requirement in § 96.55(c) derives from Article 19(3) of the Convention, which provides that: ''If the transfer of the child does not take place, the reports referred to in Articles 15 (home study of prospective adoptive parents) and 16 (child background study) are to be sent back to the authorities who forwarded them.'' The final rule allows accredited agencies and approved persons to meet this Convention obligation by considering the specific requirements, if any, of competent authorities in either the U.S. State or in the receiving country and the preference of prospective adoptive parent(s).

Subpart L—Oversight of Accredited Agencies and Approved Persons by the Secretary

Section 96.83 Suspension or Cancellation of Accreditation or Approval by the Secretary

1. *Comment:* Several commenters note their support of the due process elements of the revisions in § 96.83(b) governing suspension and cancellation of accreditation by the Secretary and requested the same due process be given to agencies and persons when an accrediting entity imposes adverse action.

Response: The Department made no changes to the regulations in response to these comments. The circumstances associated with suspensions and cancellations by the Secretary under § 96.83 are more likely to involve complex fact patterns and emergent situations than the broader range of adverse actions imposed by an accrediting entity pursuant to subpart K. The revisions to § 96.83(b) include more detailed notice provisions warranted by the circumstances in such cases.

2. *Comment:* Commenters point out as written, § 96.83(c) mandates notification to entities including the Hague Permanent Bureau, State licensing authorities, Central Authorities where the agency or person operates, and other authorities as appropriate, of the Secretary's decision to suspend or cancel accreditation, seemingly before that decision has become final. Commenters request that the § 96.83(c) notifications occur only after the disclosures made to the agency or person at the time of the Secretary's written notice of its decision to suspend or cancel and after the process in § 96.84(a) and (b) permitting rebuttal of the decision on the facts.

Response: The Department made no changes to § 96.83(a) requiring the Secretary to suspend or cancel the accreditation or approval when s/he finds the agency or person is substantially out of compliance with the standards in subpart F, nor to notification of suspension or cancellation pursuant to § 96.83(c). There is no expectation of delay of the effect of suspension or cancellation and no provision similar to § 96.77(a) by which the Secretary could delay the effect of suspension or cancellation. Furthermore, the provisions in § 96.84 allowing for withdrawal of suspension or cancellation by the Secretary assume the suspension or cancellation has already been notified pursuant to § 96.83(c) and provides for notification to the same authorities of the withdrawal.

Section 96.88 Procedures for Debarment With Prior Notice

1. *Comment:* Commenters request that in the proposed § 96.88(a), the Department provide additional information on the rationale for standard-specific non-compliance determinations.

Response: The Department made no changes in response to these comments. The rationale for standard-specific non-compliance is demonstrated through conduct-specific information provided pursuant to § 96.88(a)(2). The two sections 96.88(a)(2) and 96.88(a)(3), in conjunction, will provide sufficient notice to agencies and persons to provide transparency and clarity to the adverse action notification process.

2. *Comment:* Several commenters are concerned the time allotted for the Department to respond to an agency's response to a notice of debarment hearing in the proposed § 96.88(b) and (c) precludes the agency or person from a meaningful response and allows the Department to gather additional or different evidence than was originally

relied upon without the agency having a similar opportunity. Similarly, commenters wonder why agencies and persons would not be entitled to conduct discovery.

Response: The Department made no changes in response to this comment. As noted in the proposed § 96.88(c)(5), the procedures for debarment in § 96.88 are informal and permissive; the hearing officer may accommodate reasonable variations in the process. Information developed from all sources becomes part of the record and is available to all parties. Although there is no right to subpoena witnesses or conduct discovery, the agency or person may testify in person, offer evidence on its own behalf, present witnesses, and make arguments at the hearing. Taken together, these features offer a sound basis for an effective and fair proceeding.

3. *Comment:* One commenter is concerned that the Department, while permitting agencies to provide witnesses, may undermine that right by denying a visa to a foreign citizen willing to testify.

Response: The Department has included the option for testifying via teleconference or to accept an affidavit or sworn deposition testimony at the discretion of the hearing officer if any witness is unable to appear. Obtaining a visa to appear in person should not prevent a witness in a foreign country from providing testimony in a debarment hearing. All testimony becomes part of the written record, the only record to be reviewed by the Secretary to make a debarment decision.

4. *Comment:* Citing the intent of Congress as stated in Senate Report 106–276 that the Secretary may take enforcement actions only after the established avenue of enforcement by the accrediting entity has been found wanting, one commenter recommends that any written notice of a debarment hearing explain why the accrediting entity with jurisdiction is not taking action in the case.

Response: The Department made no change to the regulation in response to this comment and notes that the cited Senate Report comments on the Secretary's authority in IAA Section 204(b) to suspend or cancel accreditation decisions by accrediting entities. The procedures in § 96.88 relate to IAA Section 204(c) Debarment. Debarment is an exceptional proceeding outside of other enforcement actions established by the IAA, justified by circumstances that warrant exceptional action, *i.e.,* when ''there has been a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.'' IAA Section 204(c)(1)(B), (42 U.S.C. 14924(c)(1)(B)). In this situation, the Congress provided authority for the Secretary to institute debarment proceedings on the Secretary's own initiative and independent of action by an accrediting entity, though an accrediting entity may request or recommend the Secretary debar an agency or person.

Section 96.90 Review of Suspension, Cancellation, or Debarment by the Secretary

1. *Technical Correction:* The Department addresses in § 96.90(b) judicial review of final decisions by the Secretary pursuant to IAA Section 204(d) (42 U.S.C. 14924(d)). We erroneously stated in our proposed rule that if the petition to Federal Court raises an issue ''whether the deficiencies necessitating a suspension or cancellation have been corrected,'' the agency or person must first exhaust the procedures pursuant to § 96.84(b). The referenced procedures are found instead in § 96.84(c). We made this correction in the final rule.

2. *Comment:* Several commenters are concerned with the provisions in § 96.90(b) requiring, under certain conditions, that agencies and persons exhaust the process in § 96.84(c) before seeking judicial review. The commenters think this requirement exceeds the Department's authority to limit judicial review.

Response: The Department has made no changes to the provisions in § 96.90(b). IAA Section 204(b) (42 U.S.C. 14924(b)) provides for agencies or persons to petition a Federal Court to set aside the Secretary's final suspension, cancellation, and debarment decisions. Section 96.84(a)–(b) and § 96.84(c) provide two distinct processes to seek the Secretary's review of their suspension and cancellation decisions: Section 96.84(a)–(b) provides for a time-limited basis for filing with the Secretary a statement along with supporting materials as to why the decision was unwarranted and an internal review on the merits. Section 96.90(b) also denotes at what point a decision becomes final and thus reviewable in Federal Court. Section 96.84(c) is different in character from and operates independently of questions of ''unwarrantedness.'' Section 96.84(c) executes the Secretary's authority in IAA Section 204(b)(2) (42 U.S.C. 14924(b)(2)) to terminate a suspension or permit reapplication in the case of cancellation, ''at any time when the Secretary is satisfied that the deficiencies on the basis of which adverse action is taken under paragraph 1 have been corrected. . . .'' Petitions under this section may be made regardless of whether the Secretary has made a final decision of suspension or cancellation pursuant to § 96.84(a) and (b) and IAA Section 204(d) (42 U.S.C. 14924(d)). Far from limiting an agency or person's right to judicial review in such instances, § 96.90(b) streamlines that review process by allowing the Secretary to resolve first the issue the IAA assigns her/him to resolve. The decision to terminate suspension or cancellation pursuant to § 96.84(c) is not a final decision subject to judicial review pursuant to IAA Section 204(d).

Subpart M—Disseminating and Reporting of Information by the Accrediting Entities

Section 96.92 Dissemination of Information to the Public About Accreditation and Approval Status

1. *Comment:* One commenter thinks the proposed deletion of § 96.92(b) will weaken the requirement for an accrediting entity to make information available to the public about an agency or person's accreditation and approval status. However, the commenter also notes the revision to § 96.92(a) will require an accrediting entity to make information available more regularly than the current quarterly requirement.

Response: Subpart M is intended to help prospective adoptive parent(s) make informed decisions about accredited agencies and approved persons. The final rule requires an accrediting entity to provide information about agency and person activities in § 96.92(a) more frequently, at least monthly rather than quarterly. The final rule retains § 96.92(b), formerly § 96.91(b), in order to maintain the requirement for an accrediting entity to provide such information upon specific request to individual members of the public. The final rule retains the addition of ''including, where relevant, the identity and conduct of any foreign supervised provider'' to assist prospective adoptive parents to make more informed decisions about the selection of an agency or person.

Subpart R—Alternative Procedures for Primary Providers in Intercountry Adoption by Relatives

§ 96.100 Alternative Procedures for Primary Providers in Intercountry Adoption by Relatives

1. *Comment:* Several commenters welcome the effort to provide

regulations relating to adoption by relatives. Others expressed reservations that the proposed regulation will not produce the anticipated result of streamlining the process.

Response: The Department made no changes to the proposed regulations in Subpart R except for withdrawing § 96.100(d) and renumbering Section 96.100(e) to become the new § 96.100(d). We agree with one commenter's statement that the relative adoption regulations balance services provided by close family members and services for which the primary provider is responsible. By limiting the required number of adoption services the primary provider must provide, the agencies or person's time commitment to such cases may be reduced, which is likely to reduce the cost of the services they provide in such cases.

2. *Comment:* Some commenters are concerned the new provisions are not sufficient to overcome the perceived risks to families and to agencies and persons for providing limited adoption services in relative cases. These commenters noted that providing adoption services 5 (post-placement monitoring) and 6 (disruption before final adoption) from the United States is difficult and it is unrealistic to expect an agency or person would have the capacity, knowledge, or relationships to effectively monitor a placement or be able to support the parties involved in a disrupted placement.

Response: As envisioned by the IAA, adoption services 5 and 6 are important pieces of the regulatory process to protect the interests of children, birth parents, and prospective adoptive parents in intercountry adoption cases. Protecting those interests is no less a feature in the alternative procedures for intercountry adoption by relatives, and the final rule reflects this reality. Circumstances in each adoption case may vary and demand the primary provider's judgment and expertise with post-placement monitoring and transfer of the child to the custody of the adoptive family.

3. *Comment:* Several commenters point out the importance of training for prospective adoptive parent(s) in relative adoption cases but note the training elements in § 96.48 were not tailored to prepare adoptive families for adoption by relatives.

Response: The Department made no changes to § 96.48 (preparation and training for prospective adoptive parents) in the final rule with respect to adoption by relatives. We agree prospective adoptive parent(s) adopting relatives will benefit from pre-adoptive training and preparation and that some parts of the training outlined in § 96.48 may be more relevant to the relative adoption context than others. See the plans for review of § 96.48 in paragraph II.E. of this preamble.

IV. Timeline for Implementing Changes in the Final Rule

All changes in the final rule, including those related to the new alternative procedures for adoption by relatives abroad in subpart R, become effective 180 days after publication of the final rule in the **Federal Register**.

V. Regulatory Analysis

Administrative Procedure Act (APA)

Consistent with the requirements in Section 203 of the Intercountry Adoption Act, as amended, the Department is issuing this final rule after having provided a period of public notice and comment on the rule in an NPRM published November 20, 2020.

Regulatory Flexibility Act/Executive Order 13272: Small Business

This section considers the cost to small business entities of the changes to the accreditation regulations in this final rule as required by the Regulatory Flexibility Act (RFA, 5 U.S.C. *et seq.,* Pub. L. 96–354) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under 5 U.S.C. 553(b). The IAA in section 203(a)(3) (42 U.S.C. 14923(a)(3)) provides that subsections (b), (c), and (d) of 5 U.S.C. 553 apply to this rulemaking. Consistent with the Regulatory Flexibility Act, we prepared a final regulatory flexibility analysis, which requires the following elements:

(1) A Statement About the Need for and Objectives of the Rule

We refer the reader to the supplemental information on the final rule at the top of this preamble, which summarizes what we set out to accomplish in this final rule.

(2) A Statement of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis (IRFA), a Statement of the Assessment of the Agency of Such Issues, and a Statement of any Changes Made in the Proposed Rule as a Result of Such Comments

The public comments addressed the content of our IRFA, both in general terms and in comments directed to specific proposed changes. Some commenters were concerned that the cumulative impact of the proposed changes to our accreditation rule would result in increased costs to agencies and to fees charged to families. This was the most consistent concern. Some commenters thought that our estimated costs of implementation were low or did not consider some of the tasks they felt were essential to implementing the proposed changes. Of the Department's roughly 170 proposed edits and substantive changes to the accreditation rule, nearly half received no public comments. For the most part, these were minor edits or corrections to the regulation text, with no impact on the cost of implementation. We incorporated these changes into the final rule.

For the proposed changes about which stakeholders provided comments, we evaluated them first on the basis of substance, *i.e.,* what was the commenter trying to communicate about the proposed rule, and how did that align with our underlying statute, the IAA, and the Convention? Did the commenter propose a change we had not previously considered? How did the proposed change impact other parts of the regulations?

Subsequent to these considerations on substance we considered the cost to agencies and persons of implementing the commenter-proposed regulatory changes: If a proposed change was incremental, was the cost to implement also small? Or would a proposed change increase implementation costs but significantly enhance the regulation's ability to promote the child and family protection objectives of the IAA and the Convention? These inquiries helped us balance the impact of commenter-proposed changes on substance and costs in our final rule. The section-by-section discussion of significant comments in preamble section III demonstrates this analytical approach.

Significant Comments: Here are a few examples of significant public comments by commenters seeking relief from changes to the accreditation regulations they found too costly, too burdensome to implement.

(a) Standards Related to Adoption Placement Disruption Reporting

In section 96.50, which deals with agency and person responsibilities when a placement disrupts prior to the final adoption, our proposed changes strengthened standards for agency or person action when a disruption occurs.

Commenters recommended reducing or eliminating many of the changes, which they found overly burdensome to implement. Our policy priority remains to enhance protection of children who

are the most vulnerable when a disruption occurs. We believe it may be possible to develop a more streamlined standard on disruption reporting that minimizes costs while enhancing protection for children in these cases. We withdrew proposed changes to § 96.50 to gain a better understanding of stakeholder perspectives through consultation before proposing changes relating to disruption reporting.

(b) Standards Relating to Making Direct Payments to Orphanages or Other Entities for Children Pending Adoption

In the proposed rule in section 96.36 (a), we prohibited direct payments to birth parents, individuals, orphanages, or other institutions for the benefit of specific children and birth parents. Direct support payments by adoption service providers, their employees, and agents for specific child welfare activities, if permitted by the country of origin, has long been the subject of deep controversy among international child welfare and adoption experts. Our challenge is to sufficiently regulate the financial aspects of intercountry adoption to best mitigate the risk of these payments being diverted to support illicit practices directly or indirectly. Illicit practices we seek to avoid include, among others, recruiting children into institutions or child buying for purposes of intercountry adoption, or incentivizing institutions to retain children longer than necessary. Commenters argued strongly that this approach would be prejudicial to the best interests and wellbeing of children and noted in particular the importance of supporting children with medical conditions that require immediate attention that might not otherwise be possible without direct financial support. We found these arguments to be persuasive but remain deeply concerned about the possible diversion of these funds to illicit practices, which threaten the viability of intercountry adoption as a whole in addition to putting at risk the best interests and wellbeing of children. Our solution was to withdraw the prohibitions against making payments for child welfare and child protective services, while at the same time enhancing the standards for recordkeeping to increase oversight of the use of those funds. On balance, we wanted to respect the views of commenters about the value of providing targeted funds for child welfare and protective services in the period between matching and adoption, while imposing effective controls tracking the use of those funds.

(c) Standards Relating to Disclosure of Fees To Be Paid by Prospective Adoptive Parents

We decided to withdraw, pending further stakeholder consultation, proposed changes in section 96.40 that would broadly restructure the way adoption service providers report fees to the public. The public comments argued strongly not to implement these changes because of the high cost associated with implementation. Many commenters thought the new structure did not adequately represent the way adoption service providers categorize fees and estimated expenses for prospective adoptive parent(s), nor did it address practical barriers to implementing the new structure. We believe strongly in achieving greater transparency in adoption service provider fees while taking seriously concerns that the cost of implementation would be higher than we had assessed. This is another area in which we believe additional stakeholder consultations are required to identify viable solutions before moving forward with any changes to the regulations.

(3) A Description of the Comments Filed by SBA

The Chief Counsel for Advocacy of the Small Business Administration did not provide comments to our proposed rule.

(4) A Description and Estimate of the Number of Small Entities to Which the Rule Will Apply

Table 1 summarizes the number of adoption service providers accredited or approved to provide adoption services in intercountry adoption cases. As of July 2022, there were 84 accredited or approved firms. Of those firms, 72 are small business entities according to the definition of the North American Industry Classification System (NAICS), which the SBA relies on to define small business firms. Different industries define small business firms differently. NAICS Code 624110 is the industry code for Child and Youth Services and includes establishments such as adoption agencies or entities that provide child adoption services. NAICS code 624110 defines small firms as those with gross revenues of up to $15.5 million. We established agency and person annual gross revenues or receipts from their public filings of IRS form 990. Six firms are not small business entities because their annual gross receipts exceeded $15.5 million. For six adoption service providers we have no gross receipts data (a small number of firms are not required to file form 990). Table 1 shows the distribution of gross receipts for the remaining 72 small firms.

TABLE 1—U.S. ACCREDITED AND APPROVED ADOPTION SERVICE PROVIDER FIRMS GROUPED BY ANNUAL GROSS RECEIPTS, NAICS INDUSTRY CODE 624110

Firms grouped by self-reported gross receipts	Number of adoption service providers	Percentage of small firms
Other Firms:		
Firms with Gross Receipts over $15.5M	6	N/A
All Small Firms:		
Small Firms with Gross Receipts up to $15.5M	72	100%
Firms with Gross Receipts over $5M and up to $15.5M	7	10%
Firms with Gross Receiptsover $2M and up to $5M	12	17%
Firms with Gross Receiptsover $1M and up to $2M	11	15%
Firms with Gross Receiptsover $500K and up to $1M	14	19%
Firms with Gross Receiptsover $0 and up to $500K	28	39%
Firms for Which We Have No Financial Data	6	N/A
Total Number of U.S.Accredited and Approved Adoption Service Providers	84	N/A

(5) A Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule, Including Estimation of the Classes of Small Business Entities That Will Be Subject to the Requirements and the Types of Skills Necessary for Preparation of the Report or Record

Several of the new provisions in the final rule require additional record-keeping or reporting. The skills needed to perform the recordkeeping and reporting aspects of these changes to the regulation include planning for the form such recordkeeping will take, tracking of funds possibly provided using Excel or similar spreadsheet software, collecting information in a word processing document in some cases, and planning for receipt and review of reporting. Examples of increased recordkeeping and reporting:

- Proposed changes to section 96.32 include a new requirement for agencies and persons to disclose to the accrediting entities business relationships with organizations having interlocking leadership or whose leaders share family relationships. This requirement will apply to all agencies or persons, regardless of size. The standard will require ASPs to maintain lists and to report them to the accrediting entities. It will also require keeping the lists updated, which will result in some, though modest, ongoing implementation costs, after the first year.
- Section 96.36 concerns the prohibition on child buying and inducement. As discussed above, this final rule does not contain the prohibition on certain reasonable payments proposed in the NPRM. At the same time, we introduced greater accountability for all payments through record-keeping requirements for payments made or fees paid in connection with an intercountry adoption. Accounting for such payments will help decrease the risk of payments intended to benefit children being diverted to support illicit practices. The record-keeping requirements mentioned here apply to agency and person employees and supervised providers who must retain a record of all payments provided in connection with an intercountry adoption and the purposes for which they were paid.
- Changes to section 96.46 provide that fees and expenses paid to foreign supervised providers for adoption services abroad will be billed to and paid by adoptive families through the primary provider. This new requirement will mean agencies and persons will transfer some funds to foreign supervised providers that families may have been providing themselves. Agencies and persons already have strong oversight responsibilities and supervision requirements with respect to foreign supervised providers, which are reinforced by these changes. The primary provider in the case is obliged under these changes to provide a written explanation of how and when such fees and expenses will be refunded if not used for the purpose intended. This process will require greater awareness and accountability on the part of the primary provider regarding how funds provided for use abroad are dispersed and accounted for.
- In some cases, an agency or person becomes aware of new information related to suitability and may withdraw its recommendation of the prospective adoptive parents in the home study or approval of a home study. When this occurs, the new provisions in section 96.47(e) require the agency or person to notify appropriate parties, including USCIS, the primary provider, and the prospective adoptive parents. These disclosure requirements must be accomplished in a timely fashion. All disclosures can be made electronically to facilitate the urgency of the decision-making in the case and to limit the cost of disclosures.
- Finally, in section 96.51, which addresses post-adoption services, including dissolution of an adoption, we included a new requirement that agencies and persons that do not provide post-adoption services provide clients information about potential sources of post-adoption support services where they live.

(6) Description of the Steps the Agency Took To Minimize the Significant Adverse Economic Impact on Small Entities, Organizations, or Small Government Jurisdictions

As noted, the Department diligently considered the concerns of agencies and persons about the cost of these changes to the regulations. The Department's primary concern was to meet the obligations of the statute on which the regulations are based and the treaty obligations under the Convention. We undertook to balance those interests with the practical realities of implementing changes to the regulations by the regulated entities. Part of this process was to try to determine what the cost of implementation would be. In our proposed rule, we provided the calculations we used to determine these costs, including the sources of information relating to national wage averages for the various categories of work with appropriate skill sets. The Department relied on the extensive public record of regional and national wage earner salaries found in Department of Labor publications. These data offered the most thoroughgoing estimates of what workers such as social workers, trainers, bookkeeping clerks, and auditors earn on average nationally, along with descriptions of what kinds of work they perform.

In Table 2, we summarize the implementation costs associated with significant changes found in the final rule. As noted before, we withdrew some proposed changes and accepted some recommendations from public commenters to alter other proposed changes, all of which had the result of significantly reducing projected implementation costs of this final rule. We estimated average cost of implementing the proposed changes in the *proposed rule* was over $14,000 for each small firm in the first year. The current estimate for implementing the changes in the final rule is just over $4,000 for a single firm in the first year.

TABLE 2—PROJECTED COSTS TO IMPLEMENT CHANGES IN THE FINAL RULE

Projected Implementation Costs for Small Firms	
A. Estimated Average First Year Costs for each Small Firm * For subsequent year average costs, see the bottom of this table.	$4,164.50
Projected Implementation Costs for the Total Costs for all Small Firms and the Total of all Firms—all Sizes	
B. Total Estimated Average First Year Costs for all Small Firms = A. × 72 small firms.	$299,844
C. Total Estimated Average First Year Costs for all Firms—all Sizes = A. × 84 firms of all sizes.	$349,818

New regulatory elements and computation of estimated average first year costs	A. Estimated average 1st year $ costs per small firm	B. Estimated average 1st year $ costs —all small firms	C. Estimated average 1st year $ costs —all firms
1. § *96.32(e)(4):* ASP discloses to the AE any orgs that share with it any leadership, officers, boards, or family relationships, and whether it provides services to or receives payment from the agency or person	$310	$22,320	$26,040
• Creating and maintaining needed information: ○ 10 hours @$31/hour. *Estimated annual first year cost: $310.*			
2. § *96.34:* No incentive or contingent fees or plans to compensate formally or informally for locating or placing children	180	12,924	15,078
• Updating Policies and Procedures: ○ 1–4 hours @$31/hour. ○ Min./Max. cost: $31/$124. ○ Average estimated cost: $77.50. • Training: ○ 1–5 hours @$34/hour. ○ Min/Max cost: $65/$294. ○ Average estimated cost: $102. *Estimated annual first year cost: $179.50.*			
3. § *96.36(b):* Requires employees and supervised providers to record all payments or fees tendered and the purpose for which they were paid	1,228	88,380	103,110
• Updating Policies and Procedures: ○ 1–6 hours @$31/hour. ○ Min/Max Cost: $31/$186. ○ Average Estimated Cost: $108.50. • Training: ○ 1–5 hours @$34/hour. ○ Min/Max Cost: $34/$170. ○ Average Estimated Cost: $102. • Financial Recordkeeping: ○ 2–4 hrs./month @$23/hour (× 12). ○ Min/Max Cost: $552/$1104. ○ Average Estimated Cost: $828. • Auditor/Defining Data Set: ○ 1–8 hours @$42/hour. ○ Min/Max Cost: $42/$336. ○ Average Estimated Cost: $189. *Estimated annual first year cost: $1,227.50.*			
4. § *96.37(c):* Social service personnel/supervisors require experience *or training* in professional delivery of adoption services	130	9,360	10,920
• Updating Policies and Procedures: ○ 2 hours @$31/hour. ○ Estimated cost: $62. • Training: ○ 2 hours @$34/hour. ○ Estimated cost: $68. *Estimated annual first year cost: $130.*			
5. § *96.38(b):* Topics relating to intercountry adoption about which agency social service personnel require training	272	19,584	22,848
• Training: ○ 1–15 hours @$34/hour. ○ Min/Max Cost: $34/$510. *Estimated annual first year cost: $272.*			
6. § *96.38(d):* Exemption from training for newly hired social service staff in certain circumstances	97.50	7,020	8,190
• Updating Policies and Procedures: ○ 1–2 hours @$31/hour. ○ Min/Max Cost: $31/$62. ○ Average Estimated Cost: $46.50. • Training: ○ 1–2 hours @$34/hour. ○ Min/Max Cost: $34/$68. ○ Average Estimated Cost: $51. *Estimated annual first year cost: $97.50.*			
7. § *96.41(b):* Permits any birth parent, PAP, adoptive parent, or adoptee to lodge electronic complaints and clarifies that all complaints must clearly identify the complainant and the date of the complaint	82	5,904	6,888
• Updating Policies and Procedures ○ 1 hour @$31/hour. ○ Estimated cost: $31. • Training: ○ 1–2 hours @$34/hour. ○ Min/Max Cost: $34/$68.			

New regulatory elements and computation of estimated average first year costs	A. Estimated average 1st year $ costs per small firm	B. Estimated average 1st year $ costs —all small firms	C. Estimated average 1st year $ costs —all firms
○ Average Estimated Cost: $51. *Estimated annual first year cost: $82.*			
8. § *96.46(b)(7):* Prohibits PAP direct payments to foreign supervised providers for adoption services. Primary providers bill clients and pay fees and expenses due to the foreign supervised providers	729.50	52,524	61,278
• Updating Policies and Procedures: ○ 1–6 hours @$31/hour. ○ Min/Max Cost: $31/$186. ○ Average Estimated Cost: $109. • Training: ○ 1–5 hours @$34/hour. ○ Min/Max Cost: $34/$170. ○ Average Estimated Cost: $102. • Financial Recordkeeping: ○ 1–2 hrs./month @$23/hour (× 12). ○ Min/Max Cost: $276/$552. ○ Average Estimated Cost: $414. • Auditor/Defining Data Set: ○ 1–4 hours @$42/hour. ○ Min/Max Cost: $42/$168. ○ Average Estimated Cost: $189. *Estimated annual first year cost: $729.50.*			
9. § *96.47(e):* Procedures for withdrawal of home study approval including notification to USCIS, the primary provider, and others as appropriate	326.50	23,508	27,426
• Updating Policies and Procedures; Notifying Prospective Adoptive Parents, USCIS, and the Department as Needed: ○ 1–8 hours @$31/hour. ○ Min/Max Cost: $31/$248. ○ Average Estimated Cost: $139.50. • Training: ○ 1–10 hours @$34/hour. ○ Min/Max Cost: $34/$340. ○ Average Estimated Cost: $189. *Estimated annual first year cost: $326.50.*			
10. § *96.51:* Clarifies ASP role in post-adoption services in incoming cases and requires providing sources of support in the event of dissolution if the ASP does not provide post adoption services	365	26,280	30,660
• Updating Policies and Procedures: ○ 1–5 hours @$31/hour. ○ Min/Max Cost: $31/$155. ○ Average Estimated Cost: $93. • Training: ○ 1–15 hours @$34/hour. ○ Min/Max Cost: $34/$510. ○ Average Estimated Cost: $272. *Estimated annual first year cost: $365.*			
11. Additional Costs	445	32,040	37,380
• Executive Director's time: ○ 5 hours/year @$89/hour: $445. • Cost of Archiving Electronic Information: ○ There may be some archiving costs to store the new information to be collected in the final rule. Costs will vary according to the ASP's electronic processing needs, how it organizes its electronic records, and any excess capacity on hand to absorb the additional information. Given these factors, we are unable to estimate this additional cost. *Estimated annual first year cost: $445.*			
Total Estimated Average Costs for the First Year	4,164.50	299,844	349,818
New regulatory elements and computation of estimated average *subsequent* year costs	**A. Average subsequent year $ costs per small firm**	**B. Average subsequent year $ costs —all small firms**	**C. Average subsequent year $ costs —all firms**
1. § *96.32(e)(4):* Subsequent years average costs for maintaining lists and disclosure to the accrediting entities of any orgs that share with it any leadership, officers, boards, or family relationships and whether it provides services to or receives payment from the agency or person	62	4,464	5,208
• Maintaining the information: ○ 2 hours @$31/hour. *Estimated annual subsequent year cost for small firms: $62.*			

New regulatory elements and computation of estimated average *subsequent* year costs	A. Average subsequent year $ costs per small firm	B. Average subsequent year $ costs —all small firms	C. Average subsequent year $ costs —all firms
2. § 96.36(b): (Subsequent year average costs for the enhanced recordkeeping of fees and payments made in connection with intercountry adoption.)	828	59,616	69,552
• Financial Recordkeeping: ○ 2–4 hrs./month @23/hour. ○ Min/Max cost: $552/$1,104. *Estimated average annual subsequent year cost for small firms: $828.*			
Total Average Costs for Subsequent Years	890	64,080	74,760

Wage categories with national average wage rates from the may 2022 bureau of labor statistics occupational employment and wage statistics data tables

ASP staff roles	Performed by	National average hourly rate
Financial Recordkeeping	Bookkeeping Clerk (Occupation category 43–3031)	@$23
Updating Policies and Procedures; Notifying Prospective Adoptive Parents, USCIS, and the Department as Needed.	Social Worker (Occupation category 21–1029)	@31
Training	Training Officer (Occupation category 13–1151)	@34
Auditor/Data Set Defining	Auditor (Occupation category 13–2011)	@42
Chief Executives	Executive Director/CEO (Occupation category 11–1011)	@89

Table 3 illustrates the estimated annual cost of implementation expressed as a percentage of gross receipts of agencies and persons. For nearly all accredited agencies and approved persons, the cost of implementation represents less than one percent, and in no case more than 1.6% of gross receipts, as reported in IRS Form 990. We also expect that agencies and persons will benefit from economies generated by sharing information related to implementation, which may result in cost savings, particularly relating to tasks such as updating policies and procedures and preparing internal and external training related to new or revised standards.

TABLE 3—REVENUE TEST FOR ACCREDITED OR APPROVED ADOPTION SERVICE PROVIDERS' COST OF IMPLEMENTATION AS A PERCENTAGE OF ANNUAL GROSS RECEIPTS

[NAICS Industry Code 624110—Up to $15.5 Million = Small Firm]

Firm size (by gross receipts)	Average annual gross $ receipts	Number of adoption service provider firms	Percentage of small firms	Average $ cost per firm in first year	Revenue test %	Average $ cost per firm in sub-sequent years	Revenue test %
Firms with Gross Receipts over $15.5M	26,375,544	6	N/A	4,165	<1	890	<1
Small Firms:							
Gross Receipts—All Small Firms $0 up to $15.5M	2,883,831	72	100	4,165	<1	890	<1
Firms with Gross Receipts over $5M and up to $15.5M	8,550,186	7	10	4,165	<1	890	<1
Firms with Gross Receipts over $2M and up to $5M	3,577,609	12	17	4,165	<1	890	<1
Firms with Gross Receipts over $1M and up to $2M	1,351,564	11	15	4,165	<1	890	<1
Firms with Gross Receipts over $500K and up to $1M	677,821	14	19	4,165	<1	890	<1
Firms with Gross Receipts over $0K and up to $500K	261,977	28	39	4,165	1.6	890	<1

Number of Adoption Service Provider Firms about which We Have No Financial Data: 6.

Congressional Review Act

This rule is not a major rule, as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and import markets.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (codified at 2 U.S.C. 1532) requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments or the private sector.

Executive Orders 12372 and 13132: Federalism

While States traditionally have regulated adoptions and will have an interest in this rule, the Department does not believe this regulation will have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and

responsibilities among the various levels of government. The rule does not impose any obligations on State governments or have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Orders 12866, 14094, and 13563

The Department has reviewed this final rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866, as amended by Executive Order 14094. The cost to accredited agencies and approved persons for implementing the changes in the final rule are modest and reflect an effort to maximize desired outcomes at minimized cost. The obligation to determine whether the benefits of the proposed revision to the accreditation regulation outweigh the costs of achieving them is made more difficult by the fact that the benefits, which primarily relate to protecting the best interests of the child, as well as providing certain consumer protections for prospective adoptive parents, are difficult to quantify economically. That makes a strict cost-benefit analysis difficult to accomplish. Nonetheless, we believe the benefits apparent from this *qualitative* discussion of costs and benefits support our conclusion that the costs associated with the proposed changes are justified and conclude they deliver significant benefits on several levels. The benefits to children, to adoptive families, to society in general, and to the institution of intercountry adoption in terms of its world-wide viability, outweigh the dollar costs of implementing the proposed changes.

We discussed earlier in this preamble why we pursued revisions to the accreditation rule and why we introduced new elements. We noted qualitative factors informing the process and our estimates of average dollar costs to implement them. In parts II and III of this preamble, we highlighted changes included in this final rule responsive to adoption service provider comments addressing both the cost and the effectiveness of our proposed revisions to the rule. The following discussion summarizes the categories of benefits driving changes incorporated in the final rule.

Because this final rule concerns standards for agencies and persons providing adoption services in intercountry adoption and the accreditation and oversight process authorizing them to do so, our cost-benefit analysis relies on categories of benefits that are both nonmonetizable and nonquantifiable. The qualitative character of the resulting cost-benefit analysis closely reflects the qualitative outcomes essential to carrying out our statutory accreditation scheme in service of each side of the adoption triad: children, birth families, and adoptive families.

As part of the cost-benefit analysis responsive to Executive Orders 12866, as amended, and E.O. 13563 we weighed possible changes to the final rule against several categories of qualitative benefits summarized in Table 4.

TABLE 4—BENEFIT CATEGORIES

Benefit Category 1—*Efficiency.*
Benefit Category 2—*Clarity and Transparency.*
Benefit Category 3—*Payment Accountability.*
Benefit Category 4—*Enhanced Expertise of Social Service Personnel.*
Benefit Category 5—*Preserving Due Process Protections.*

Benefit category 1—*Efficiency.* This category represents maximizing the effective use of resources in a standard or process. The new provisions relating to adoption by relatives are illustrative as they provide a streamlined process limiting primary provider services while leveraging the experience of in-country relatives. The resulting savings in time and expense promises to make adoption by relatives a more accessible option for adoptive families.

Benefit Category 2—*Clarity and Transparency.* The revised regulations provide processes that address persistent questions raised by adoption service providers and accrediting entities, such as requirements for notification regarding changes in prospective adoptive parent suitability. This benefit category is also embodied in the revision to best interests of the child and in clarifying the requirements of the submission of complaints to adoption service providers.

Benefit Category 3—*Payment Accountability.* In the final rule we introduce enhanced recordkeeping practices for payments and fees made in connection with an intercountry adoption. In addition, we added a standard that prohibits foreign supervised providers from directly billing prospective adoptive parents for the provision of adoption services abroad. These changes will increase transparency between primary providers and foreign supervised providers in a child's country of origin and better protect prospective adoptive parents from price gouging and from imposition of unexpected additional fees in the adoption process abroad.

Benefit Category 4—*Enhanced Expertise of Social Service Personnel.* We enhanced social worker training standards to incorporate new elements relating to trauma-informed parenting and assisting children with special needs. Agencies and persons utilize initial and ongoing training to keep newly hired and current employees well prepared and highly knowledgeable. Duties assigned to social service personnel include providing adoptive families adoption-related social services that involve the application of clinical skills and judgment.

Benefit Category 5—*Preserving Due Process Protections.* The accreditation regulations include procedures for holding agencies and persons accountable for misconduct through adverse action proceedings. In the final rule we introduce new procedural safeguards applicable when the Secretary suspends or cancels accreditation or approval, including how to overcome the suspension or cancellation either because the adverse action was unwarranted or because the deficiencies leading to suspension or cancellation have been corrected. These changes also enhance clarity and transparency for adoption service providers faced with a loss of accreditation or approval. The new procedures for use in debarment proceedings, likewise, provide clarity and transparency while also effectively protecting the due process rights of agencies and persons accused of the most egregious abuses and facing the most severe penalties.

Taken as a whole, the changes in this final rule represent essential revisions to make the accreditation regulations more effective given the purposes of the Convention and implementing legislation, noted above, working for the best interests of children and enhanced viability of intercountry adoption worldwide.

Total Cost Estimates

Table 5 summarizes the financial impacts of the proposed rule. Total monetized costs of the proposed rule include the aggregated average cost of implementing the proposed changes to the accreditation rule summarized in Table 2. The 10-year discounted cost of the proposed rule in 2023 dollars would range from $953,000 to $994,000 (with three and seven percent discount rates, respectively). The annualized costs of the proposed rule would range from $95,000 to $99,000 (with three and seven percent discount rates, respectively).

TABLE 5—COSTS OF THE PROPOSED RULE IN 2023 $ (THOUSANDS) WITH THREE AND SEVEN PERCENT DISCOUNT RATES

Fiscal year	All adoption service provider firms regardless of size
2024	350
2025	75
2026	75
2027	75
2028	75
2029	75
2030	75
2031	75
2032	75
2033	75
Undiscounted Total	$1,025
Total with 3% discounting	$994
Total with 7% discounting	$953
Annualized, 3% discount rate, 10 years	$99
Annualized, 7% discount rate, 10 years	$95

Executive Order 12988: Civil Justice Reform

The Department has reviewed these regulations in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation risks, establish clear legal standards, and reduce burden. The Department has made every reasonable effort to ensure compliance with the requirements in Executive Order 12988.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

The Paperwork Reduction Act of 1995

In accordance with 42 U.S.C. 14953(c), this rule does not impose information collection requirements subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 96

Accreditation, Administrative practice and procedure, Intercountry adoption, Reporting and recordkeeping requirements, Standards, Treaties.

For the reasons stated in the preamble, the Department of State amends 22 CFR part 96 as follows:

PART 96—INTERCOUNTRY ADOPTION ACCREDITATION OF AGENCIES AND APPROVAL OF PERSONS

■ 1. The authority citation for part 96 continues to read as follows:

Authority: The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954; The Intercountry Adoption Universal Accreditation Act of 2012, Pub. L. 112–276, 42 U.S.C. 14925.

■ 2. Revise subpart A to read as follows:

Subpart A—General Provisions

Sec.
96.1 Purpose.
96.2 Definitions.
96.3 [Reserved]

Subpart A—General Provisions

§ 96.1 Purpose.

This part provides for the accreditation and approval of agencies and persons pursuant to the Intercountry Adoption Act of 2000 (42 U.S.C. 14901–14954, Pub. L. 106–279), which implements the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, U.S. Senate Treaty Doc. 105–51, Multilateral Treaties in Force as of January 1, 2016, p. 9; and the Intercountry Adoption Universal Accreditation Act of 2012 (42 U.S.C. 14925, Pub. L. 112–276).

§ 96.2 Definitions.

As used in this part, the term:

Accredited agency means an agency that has been accredited by an accrediting entity, in accordance with the standards in subpart F of this part, to provide adoption services in the United States in intercountry adoption cases.

Accrediting entity means an entity that has been designated by the Secretary to accredit agencies and/or to approve persons for purposes of providing adoption services in the United States in intercountry adoption cases.

Adoption means the judicial or administrative act that establishes a permanent legal parent-child relationship between a minor and an adult who is not already the minor's legal parent and terminates the legal

parent-child relationship between the adoptive child and any former parent(s).

Adoption record means any record, information, or item related to a specific intercountry adoption of a child received or maintained by an agency, person, or public domestic authority, including, but not limited to, photographs, videos, correspondence, personal effects, medical and social information, and any other information about the child.

Adoption service means any one of the following six services:

(1) Identifying a child for adoption and arranging an adoption;

(2) Securing the necessary consent to termination of parental rights and to adoption;

(3) Performing a background study on a child or a home study on a prospective adoptive parent(s), and reporting on such a study;

(4) Making non-judicial determinations of the best interests of a child and the appropriateness of an adoptive placement for the child;

(5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or

(6) When necessary because of a disruption before final adoption, assuming custody and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.

Agency means a private, nonprofit organization licensed to provide adoption services in at least one State. (For-profit entities and individuals that provide adoption services are considered ''persons'' as defined in this section.)

Approved home study means a review of the home environment of the child's prospective adoptive parent(s) that has been:

(1) Completed by an accredited agency; or

(2) Approved by an accredited agency.

Approved person means a person that has been approved, in accordance with the standards in subpart F of this part, by an accrediting entity to provide adoption services in the United States in intercountry adoption cases.

Best interests of the child, in cases in which a State has jurisdiction to decide whether a particular adoption or adoption-related action is in a child's best interests, shall have the meaning given to it by the law of the State. In all other cases, including any case in which a child is outside the United States at the time the ASP considers the best interests of the child in connection with any decision or action, best interests of the child shall be interpreted in light of the object and purpose of the Convention, the IAA, the UAA, and their implementing regulations.

Case Registry means the tracking system jointly established by the Secretary and DHS to comply with section 102(e) of the IAA (42 U.S.C. 14912).

Central Authority means the entity designated as such under Article 6(1) of the Convention by any Convention country, or, in the case of the United States, the United States Department of State. In countries that are not Convention countries, Central Authority means the relevant ''competent authority'' as defined in this section.

Child welfare services means services, other than those defined as ''adoption services'' in this section, that are designed to promote and protect the well-being of a family or child. Such services include, but are not limited to, providing temporary foster care for a child in connection with an intercountry adoption or providing educational, social, cultural, medical, psychological assessment, mental health, or other health-related services for a child or family in an intercountry adoption case.

Competent authority means a court or governmental authority of a foreign country that has jurisdiction and authority to make decisions in matters of child welfare, including adoption.

Complaint Registry means the system created by the Secretary pursuant to § 96.70 to receive, distribute, and monitor complaints relevant to the accreditation or approval status of agencies and persons.

Convention means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption done at The Hague on May 29, 1993.

Convention adoption means the adoption of a child resident in a Convention country by a United States citizen, or an adoption of a child resident in the United States by an individual or individuals residing in a Convention country, when, in connection with the adoption, the child has moved or will move between the United States and the Convention country.

Convention country means a country that is a party to the Convention and with which the Convention is in force for the United States.

Country of origin means the country in which a child is a resident and from which a child is emigrating in connection with his or her adoption.

Debarment means the loss of accreditation or approval by an agency or person as a result of an order of the Secretary under which the agency or person is temporarily or permanently barred from accreditation or approval.

DHS means the U.S. Department of Homeland Security and encompasses the former Immigration and Naturalization Service (INS) or any successor entity designated by the Secretary of Homeland Security to assume the functions vested in the Attorney General by the IAA relating to the INS's responsibilities.

Disruption means the interruption of a placement for adoption during the post-placement period.

Dissolution means the termination of the adoptive parent(s)' parental rights after an adoption.

Exempted provider means a social work professional or organization that performs a home study on prospective adoptive parent(s) or a child background study (or both) in the United States in connection with an intercountry adoption (including any reports or updates), but that is not currently providing and has not previously provided any other adoption service in the case.

IAA means the Intercountry Adoption Act of 2000, Public Law 106–279 (2000) (42 U.S.C. 14901–14954), as amended from time to time.

INA means the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*), as amended.

Intercountry adoption means a Convention adoption of a child described in INA section 101(b)(1)(G) or the adoption of a child described in INA section 101(b)(1)(F).

Legal custody means having legal responsibility for a child under the order of a court of law, a public domestic authority, competent authority, public foreign authority, or by operation of law.

Legal services means services, other than those defined in this section as ''adoption services,'' that relate to the provision of legal advice and information and to the drafting of legal instruments. Such services include, but are not limited to, drawing up contracts, powers of attorney, and other legal instruments; providing advice and counsel to adoptive parent(s) on completing DHS or Central Authority forms; and providing advice and counsel to accredited agencies, approved persons, or prospective adoptive parent(s) on how to comply with the Convention, the IAA, the UAA, and the regulations implementing the IAA and the UAA.

Person means an individual or a private, for-profit entity (including a corporation, company, association, firm, partnership, society, or joint stock company) providing adoption services.

It does not include public domestic authorities or public foreign authorities.

Post-adoption means after an adoption; in cases in which an adoption occurs in a foreign country and is followed by a re-adoption in the United States, it means after the adoption in the foreign country.

Post-placement means after a grant of legal custody or guardianship of the child to the prospective adoptive parent(s), or to a custodian for the purpose of escorting the child to the identified prospective adoptive parent(s), and before an adoption.

Primary provider means the accredited agency or approved person that is identified pursuant to § 96.14 as responsible for ensuring that all six adoption services are provided and for supervising and being responsible for supervised providers where used.

Public domestic authority means an authority operated by a State, local, or Tribal government within the United States.

Public foreign authority means an authority operated by a national or subnational government of a foreign country.

Relative, for the purposes of the alternative procedures for primary providers in intercountry adoption by relatives found in subpart R of this part, means a prospective adoptive parent was already, before the adoption, any of the following: parent, step-parent, brother, step-brother, sister, step-sister, grandparent, aunt, uncle, half-brother to the child's parent, half-sister to the child's parent, half-brother, half-sister, or the U.S. citizen spouse of the person with one of these qualifying relationships with the child. The relationship can exist by virtue of blood, marriage, or adoption.

Secretary means the Secretary of State, the Assistant Secretary of State for Consular Affairs, or any other Department of State official exercising the Secretary of State's authority under the Convention, the IAA, the UAA, or any regulations implementing the IAA and the UAA, pursuant to a delegation of authority.

State means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands.

Supervised provider means any agency, person, or other non-governmental entity, including any domestic or foreign entity, regardless of whether it is called a facilitator, agent, attorney, or by any other name, that is providing one or more adoption services in an intercountry adoption case under the supervision and responsibility of an accredited agency or approved person that is acting as the primary provider in the case.

UAA means the Intercountry Adoption Universal Accreditation Act of 2012 (42 U.S.C. 14925, Pub. L. 112–276 (2012)).

USCIS means U.S. Citizenship and Immigration Services within the U.S. Department of Homeland Security.

§ 96.3 [Reserved]

■ 3. Revise subpart B to read as follows:

Subpart B—Selection, Designation, and Duties of Accrediting Entities

Sec.

Subpart B—Selection, Designation, and Duties of Accrediting Entities

§ 96.4 Designation of accrediting entities by the Secretary.

(a) The Secretary, in the Secretary's discretion, will designate one or more entities that meet the criteria set forth in § 96.5 to perform the accreditation and/or approval functions. Each accrediting entity's designation will be set forth in an agreement between the Secretary and the accrediting entity. The agreement will govern the accrediting entity's operations. The agreements will be published in the **Federal Register**.

(b) The Secretary's designation may authorize an accrediting entity to accredit agencies, to approve persons, or to both accredit agencies and approve persons. The designation may also limit the accrediting entity's geographic jurisdiction or impose other limits on the entity's jurisdiction.

(c) A public entity under § 96.5(b) may only be designated to accredit agencies and approve persons that are located in the public entity's State.

§ 96.5 Requirement that accrediting entity be a nonprofit or public entity.

An accrediting entity must qualify as either:

(a) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended (26 CFR 1.501(c)(3)–1), that has expertise in developing and administering standards for entities providing child welfare services; or

(b) A public entity (other than a Federal entity), including, but not limited to, any State or local government or governmental unit or any political subdivision, agency, or instrumentality thereof, that has expertise in developing and administering standards for entities providing child welfare services.

§ 96.6 Performance criteria for designation as an accrediting entity.

An entity that seeks to be designated as an accrediting entity must demonstrate to the Secretary:

(a) That it has a governing structure, the human and financial resources, and systems of control adequate to ensure its reliability;

(b) That it is capable of performing the accreditation or approval functions or both on a timely basis and of administering any renewal cycle authorized under § 96.60;

(c) That it can monitor the performance of accredited agencies and approved persons (including their use of any supervised providers) to ensure their continued compliance with the Convention, the IAA, the UAA, and the regulations implementing the IAA and the UAA;

(d) That it has the capacity to take appropriate adverse actions against accredited agencies and approved persons;

(e) That it can perform the required data collection, reporting, and other similar functions;

(f) Except in the case of a public entity, that it operates independently of any agency or person that provides adoption services, and of any membership organization that includes agencies or persons that provide adoption services;

(g) That it has the capacity to conduct its accreditation and approval functions fairly and impartially;

(h) That it can comply with any conflict of interest prohibitions set by the Secretary;

(i) That it prohibits conflicts of interest with agencies or persons or with any membership organization that includes agencies or persons that provide adoption services; and

(j) That it prohibits its employees or other individuals acting as site evaluators, including, but not limited to, volunteer site evaluators, from becoming employees or supervised providers of an accredited agency or approved person for at least one year after they have evaluated such agency or person for accreditation or approval.

§ 96.7 Authorities and responsibilities of an accrediting entity.

(a) An accrediting entity may be authorized by the Secretary to perform some or all of the following functions:

(1) Determining whether agencies are eligible for accreditation;

(2) Determining whether persons are eligible for approval;

(3) Overseeing accredited agencies and/or approved persons by monitoring their compliance with applicable requirements;

(4) Reviewing and responding to complaints about accredited agencies and approved persons (including their use of supervised providers);

(5) Taking adverse action against an accredited agency or approved person, and/or referring an accredited agency or approved person for possible action by the Secretary;

(6) Determining whether accredited agencies and approved persons are eligible for renewal of their accreditation or approval on a cycle consistent with § 96.60;

(7) Collecting data from accredited agencies and approved persons, maintaining records, and reporting information to the Secretary, State courts, and other entities; and

(8) Assisting the Secretary in taking appropriate action to help an agency or person in transferring its intercountry adoption cases and adoption records.

(9) Maintaining all records related to its role as an accrediting entity for a period of at least ten years, or longer if otherwise set forth in its agreement with the Secretary.

(b) The Secretary may require the accrediting entity:

(1) To utilize the Complaint Registry as provided in subpart J of this part; and

(2) To fund a portion of the costs of operating the Complaint Registry with fees collected by the accrediting entity pursuant to the schedule of fees approved by the Secretary as provided in § 96.8.

(c) An accrediting entity must perform all responsibilities in accordance with the Convention, the IAA, the UAA, the regulations implementing the IAA and the UAA, and its agreement with the Secretary.

§ 96.8 Fees charged by accrediting entities.

(a) An accrediting entity may charge fees for accreditation or approval services under this part only in accordance with a schedule of fees approved by the Secretary. Before approving a schedule of fees proposed by an accrediting entity, or subsequent proposed changes to an approved schedule, the Secretary will require the accrediting entity to demonstrate:

(1) That its proposed schedule of fees reflects appropriate consideration of the relative size and geographic location and volume of intercountry adoption cases of the agencies or persons it expects to serve; and

(2) That the total fees the accrediting entity expects to collect under the schedule of fees will not exceed the full costs of the accrediting entity functions the Secretary has authorized it to perform under this part (including, but not limited to, costs for completing the accreditation or approval process, complaint review, routine oversight and enforcement, and other data collection and reporting activities).

(b) The Secretary shall publish in the **Federal Register** a notice of the proposed fee schedule along with a summary of the information provided by the accrediting entity and a general statement explaining their basis. After notice required by this section, the Secretary shall give interested persons an opportunity to participate in the proposed fee schedule setting through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the Secretary shall, following approval of the final schedule of fees, publish the final schedule of fees and a concise general statement of their basis.

(c) The schedule of fees must:

(1) Establish separate, non-refundable fees for accreditation and approval; and

(2) Include in each fee the costs of all activities associated with such fee, including but not limited to, costs for completing the accreditation or approval process, complaint review, routine oversight and enforcement, and other data collection and reporting activities, except that separate fees based on actual costs incurred may be charged for the travel and maintenance of evaluators.

(d) An accrediting entity must make its approved schedule of fees available to the public, including prospective applicants for accreditation or approval, upon request. At the time of application, the accrediting entity must specify the fees to be charged to the applicant in a contract between the parties and must provide notice to the applicant that no portion of the fee will be refunded if the applicant fails to become accredited or approved.

(e) Nothing in this section shall be construed to provide a private right of action to challenge any fee charged by an accrediting entity pursuant to a schedule of fees approved by the Secretary.

§ 96.9 Agreement between the Secretary and the accrediting entity.

An accrediting entity must perform its functions pursuant to a written agreement with the Secretary that will be published in the **Federal Register**. The agreement will address:

(a) The responsibilities and duties of the accrediting entity;

(b) The method by which the costs of delivering the authorized accrediting entity functions may be recovered through the collection of fees from those seeking accreditation or approval, and how the entity's schedule of fees will be approved;

(c) How the accrediting entity will address complaints about accredited agencies and approved persons (including their use of supervised providers) and complaints about the accrediting entity itself;

(d) Data collection requirements;

(e) Matters of communication and accountability between both the accrediting entity and the applicant(s) and between the accrediting entity and the Secretary; and

(f) Other matters upon which the parties have agreed.

§ 96.10 Suspension or cancellation of the designation of an accrediting entity by the Secretary.

(a) The Secretary will suspend or cancel the designation of an accrediting entity if the Secretary concludes that it is substantially out of compliance with the Convention, the IAA, the UAA, the regulations implementing the IAA and the UAA, other applicable laws, or the agreement with the Secretary. Complaints regarding the performance of the accrediting entity may be submitted to the Department of State, Bureau of Consular Affairs. The Secretary will consider complaints in determining whether an accrediting entity's designation should be suspended or canceled.

(b) The Secretary will notify an accrediting entity in writing of any deficiencies in the accrediting entity's performance that could lead to the suspension or cancellation of its designation and will provide the accrediting entity with an opportunity to demonstrate that suspension or cancellation is unwarranted, in accordance with procedures established in the agreement entered into pursuant to § 96.9.

(c) An accrediting entity may be considered substantially out of compliance under circumstances that include, but are not limited to:

(1) Failing to act in a timely manner when presented with evidence that an accredited agency or approved person is

substantially out of compliance with the standards in subpart F of this part;

(2) Accrediting or approving an agency or person whose performance results in intervention of the Secretary for the purpose of suspension, cancellation, or debarment;

(3) Failing to perform its responsibilities fairly and objectively;

(4) Violating prohibitions on conflicts of interest;

(5) Failing to meet its reporting requirements;

(6) Failing to protect information, including personally identifiable information, or documents that it receives in the course of performing its responsibilities; and

(7) Failing to monitor frequently and carefully the compliance of accredited agencies and approved persons with the Convention, the IAA, the UAA, and the regulations implementing the IAA and the UAA, including the home study requirements of the Convention, section 203(b)(1)(A)(ii) of the IAA (42 U.S.C. 14923(b)(1)(A)(ii)), and § 96.47.

(d) An accrediting entity that is subject to a final action of suspension or cancellation may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the accrediting entity is located to set aside the action as provided in section 204(d) of the IAA (42 U.S.C. 14924(d)).

§ 96.11 [Reserved]

■ 4. Revise § 96.12 to read as follows:

§ 96.12 Authorized adoption service providers.

(a) Except as provided in section 505(b) of the IAA (relating to transition cases) and section 2(c) of the UAA (relating to transition cases), an agency or person may not offer, provide, or facilitate the provision of any adoption service in connection with an intercountry adoption unless it is:

(1) An accredited agency or an approved person;

(2) A supervised provider; or

(3) An exempted provider, if the exempted provider's home study or child background study will be reviewed and approved by an accredited agency pursuant to § 96.47(c) or § 96.53(b).

(b) A public domestic authority may also offer, provide, or facilitate the provision of any such adoption service.

(c) Neither conferral nor maintenance of accreditation or approval, nor status as an exempted or supervised provider, nor status as a public domestic authority shall be construed to imply, warrant, or establish that, in any specific case, an adoption service has been provided consistently with the Convention, the IAA, the UAA, or the regulations implementing the IAA and the UAA. Conferral and maintenance of accreditation or approval under this part establishes only that the accrediting entity has concluded, in accordance with the standards and procedures of this part, that the accredited agency or approved person provides adoption services in substantial compliance with the applicable standards set forth in this part; it is not a guarantee that in any specific case the accredited agency or approved person is providing adoption services consistently with the Convention, the IAA, the UAA, the regulations implementing the IAA and the UAA, or any other applicable law, whether Federal, State, or foreign. Neither the Secretary nor any accrediting entity shall be responsible for any acts of an accredited agency, approved person, exempted provider, supervised provider, or other entity providing services in connection with an intercountry adoption.

■ 5. Revise subpart E to read as follows:

Subpart E—Evaluation of Applicants for Accreditation and Approval

Subpart E—Evaluation of Applicants for Accreditation and Approval

§ 96.23 Scope.

The provisions in this subpart govern the evaluation of agencies and persons for accreditation or approval.

§ 96.24 Procedures for evaluating applicants for accreditation or approval.

(a) The accrediting entity must designate at least two evaluators to evaluate an agency or person for accreditation or approval. The accrediting entity's evaluators must have expertise in intercountry adoption, standards evaluation, finance or accounting, or have experience with the management or oversight of child welfare organizations and must also meet any additional qualifications required by the Secretary in the agreement with the accrediting entity.

(b) To evaluate the agency's or person's eligibility for accreditation or approval, the accrediting entity must:

(1) Review the agency's or person's written application and supporting documentation;

(2) Verify the information provided by the agency or person by examining underlying documentation;

(3) Consider any complaints received by the accrediting entity pursuant to subpart J of this part; and

(4) Conduct site visit(s).

(c) The site visit(s) may include, but need not be limited to, interviews with birth parents, adoptive parent(s), prospective adoptive parent(s), and adult adoptee(s) served by the agency or person, interviews with the agency's or person's employees, and interviews with other individuals knowledgeable about the agency's or person's provision of adoption services. It may also include a review of on-site documents. The accrediting entity must, to the extent practicable, advise the agency or person in advance of the type of documents it wishes to review during the site visit. The accrediting entity must require at least one of the evaluators to participate in each site visit. The accrediting entity must determine the number of evaluators that participate in a site visit in light of factors such as:

(1) The agency's or person's size;

(2) The number of adoption cases it handles;

(3) The number of sites the accrediting entity decides to visit; and

(4) The number of individuals working at each site.

(d) Before deciding whether to accredit an agency or approve a person, the accrediting entity may, in its discretion, advise the agency or person of any deficiencies that may hinder or prevent its accreditation or approval and defer a decision to allow the agency or person to correct the deficiencies.

§ 96.25 Access to information and documents requested by the accrediting entity.

(a) The agency or person must give the accrediting entity access to information and documents, including adoption case files and proprietary information, that it requires or requests to evaluate an agency or person for accreditation or approval and to perform its oversight, enforcement, renewal, data collection, and other functions. The agency or person must also cooperate with the accrediting entity by making employees available for interviews upon request.

(b) Accrediting entity review of adoption case files pursuant to paragraph (a) of this section shall be limited to Convention adoption case files and cases subject to the UAA, except that, in the case of first-time applicants for accreditation or approval, the accrediting entity may review adoption case files related to other non-

Convention cases for purposes of assessing the agency's or person's capacity to comply with record-keeping and data-management standards in subpart F of this part. The accrediting entity shall permit the agency or person to redact names and other information that identifies birth parent(s), prospective adoptive parent(s), and adoptee(s) from such non-Convention adoption case files not subject to the UAA prior to their inspection by the accrediting entity.

(c) If an agency or person fails to provide requested documents or information, or to make employees available as requested, or engages in deliberate destruction of requested documentation or information, or provides false or misleading documents or information, the accrediting entity may deny accreditation or approval or, in the case of an accredited agency or approved person, take appropriate adverse action against the agency or person solely on that basis.

§ 96.26 Protection of information and documents by the accrediting entity.

(a) The accrediting entity must protect from unauthorized use and disclosure all documents and information about the agency or person it receives including, but not limited to, documents and proprietary information about the agency's or person's finances, management, and professional practices received in connection with the performance of its accreditation or approval, oversight, enforcement, renewal, data collection, or other functions under its agreement with the Secretary and this part.

(b) The documents and information received may not be disclosed to the public and may be used only for the purpose of performing the accrediting entity's accreditation or approval functions, monitoring and oversight, and related tasks under its agreement with the Secretary and this part, or to provide information to the Secretary, the Complaint Registry, or an appropriate Federal, State, tribal, or local authority, including, but not limited to, a public domestic authority or local law enforcement authority unless:

(1) Otherwise authorized by the agency or person in writing;

(2) Otherwise required under Federal or State laws; or

(3) Required pursuant to subpart M of this part.

(c) Unless the names and other information that identifies the birth parent(s), prospective adoptive parent(s), and adoptee(s) are requested by the accrediting entity for an articulated reason, the agency or person may withhold from the accrediting entity such information and substitute individually assigned codes in the documents it provides. The accrediting entity must have appropriate safeguards to protect from unauthorized use and disclosure of any information in its files that identifies birth parent(s), prospective adoptive parent(s), and adoptee(s). The accrediting entity must ensure that its officers, employees, contractors, and evaluators who have access to information or documents provided by the agency or person have signed a non-disclosure agreement reflecting the requirements of paragraphs (a) and (b) of this section.

(d) The accrediting entity must maintain a complete and accurate record of all information it receives related to an agency or person, and the basis for the accrediting entity's decisions concerning the agency or person for a period of at least ten years, or longer if otherwise set forth in its agreement with the Secretary.

§ 96.27 Substantive criteria for evaluating applicants for accreditation or approval.

(a) The accrediting entity may not grant an agency accreditation or a person approval, or permit an agency's or person's accreditation or approval to be maintained, unless the agency or person demonstrates to the satisfaction of the accrediting entity that it is in substantial compliance with the standards in subpart F of this part.

(b) When the agency or person makes its initial application for accreditation or approval, the accrediting entity may measure the capacity of the agency or person to achieve substantial compliance with the standards in subpart F of this part where relevant evidence of its actual performance is not yet available. Once the agency or person has been accredited or approved pursuant to this part, the accrediting entity must, for the purposes of monitoring, renewal, enforcement, and reapplication after adverse action, consider the agency's or person's actual performance in deciding whether the agency or person is in substantial compliance with the standards in subpart F of this part, unless the accrediting entity determines that it is still necessary to measure capacity because services have not yet been provided and thus adequate evidence of actual performance is not available.

(c) The standards contained in subpart F of this part apply during all the stages of accreditation and approval, including, but not limited to, when the accrediting entity is evaluating an applicant for accreditation or approval, when it is determining whether to renew an agency's or person's accreditation or approval, when it is monitoring the performance of an accredited agency or approved person, and when it is taking adverse action against an accredited agency or approved person. Except as provided in § 96.25 and paragraphs (e) and (f) of this section, the accrediting entity may only use the standards contained in subpart F of this part, when determining whether an agency or person may be granted or permitted to maintain accreditation or approval.

(d) The Secretary will ensure that each accrediting entity performs its accreditation and approval functions using only a method approved by the Secretary that is substantially the same as the method approved for use by each other accrediting entity. Each such method will include: an assigned value for each standard (or element of a standard); a method of rating an agency's or person's compliance with each applicable standard; and a method of evaluating whether an agency's or person's overall compliance with all applicable standards establishes that the agency or person is in substantial compliance with the standards and can be accredited or approved. The Secretary will ensure that the value assigned to each standard reflects the relative importance of that standard to compliance with the Convention, the IAA, and the UAA and is consistent with the value assigned to the standard by other accrediting entities. The accrediting entity must advise applicants of the value assigned to each standard (or elements of each standard) at the time it provides applicants with the application materials.

(e) If an agency or person previously has been denied accreditation or approval, has withdrawn its application in anticipation of denial, or is reapplying for accreditation or approval after cancellation, refusal to renew, or temporary debarment, the accrediting entity must take the reasons underlying such actions into account when evaluating the agency or person for accreditation or approval, and may deny accreditation or approval on the basis of the previous action.

(f) If an agency or person that has an ownership or control interest in the applicant, as that term is defined in section 1124 of the Social Security Act (42 U.S.C. 1320a–3), has been debarred pursuant to § 96.85, the accrediting entity must take into account the reasons underlying the debarment when evaluating the agency or person for accreditation or approval, and may deny accreditation or approval or refuse to

renew accreditation or approval on the basis of the debarment.

(g) The standards contained in subpart F of this part do not eliminate the need for an agency or person to comply fully with the laws of jurisdictions in which it operates. An agency or person must provide adoption services in intercountry adoption cases consistent with the laws of any State in which it operates, and with the Convention, the IAA, and the UAA. Persons that are approved to provide adoption services may only provide such services in States that do not prohibit persons from providing adoption services. Nothing in the application of this subpart E and subpart F of this part should be construed to require a State to allow persons to provide adoption services if State law does not permit them to do so.

§ 96.28 [Reserved]

■ 6. Revise subpart F to read as follows:

Subpart F—Standards for Intercountry Adoption Accreditation and Approval

Sec.

Subpart F—Standards for Intercountry Adoption Accreditation and Approval

§ 96.29 Scope.

The provisions in this subpart provide the standards for accrediting agencies and approving persons.

Licensing, Compliance with Applicable Laws, and Corporate Governance

§ 96.30 State licensing and compliance with all applicable laws.

(a) The agency or person is properly licensed or otherwise authorized by State law to provide adoption services in at least one State.

(b) The agency or person follows applicable State licensing and regulatory requirements in all jurisdictions in which it provides adoption services.

(c) If it provides adoption services in a State in which it is not itself licensed or authorized to provide such services, the agency or person does so only:

(1) Through agencies or persons that are licensed or authorized by State law to provide adoption services in that State and that are exempted providers or acting as supervised providers; or

(2) Through public domestic authorities.

(d) In the case of a person, the individual or for-profit entity is not prohibited by State law from providing adoption services in any State where it is providing adoption services, and does not provide adoption services in foreign countries that prohibit individuals or for-profit entities from providing adoption services.

(e) The agency or person complies with applicable laws in all foreign countries in which it provides adoption services.

§ 96.31 Corporate structure.

(a) The agency qualifies for nonprofit tax treatment under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or qualifies for nonprofit status under the laws of any State.

(b) The person is an individual or is a for-profit entity organized as a corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity under the laws of any State.

§ 96.32 Internal structure and oversight.

(a) The agency or person has (or, in the case of an individual, is) a chief executive officer or equivalent official who is qualified by education, adoption service experience, and management credentials to ensure effective use of resources and coordinated delivery of the services provided by the agency or person, and has authority and responsibility for management and oversight of the staff and any supervised providers in carrying out the adoption-related functions of the organization.

(b) The agency or person has a board of directors or a similar governing body that establishes and approves its mission, policies, budget, and programs; provides leadership to secure the resources needed to support its programs; includes one or more individuals with experience in adoption, including but not limited to, adoptees, birth parents, prospective adoptive parent(s), and adoptive parents; and appoints and oversees the performance of its chief executive officer or equivalent official. This standard does not apply where the person is an individual practitioner.

(c) The agency or person keeps permanent records of the meetings and deliberations of its governing body and of its major decisions affecting the delivery of adoption services.

(d) The agency or person has in place procedures and standards, pursuant to §§ 96.45 and 96.46, for the selection, monitoring, and oversight of supervised providers.

(e) The agency or person discloses to the accrediting entity the following information:

(1) Any other names by which the agency or person is or has been known, under either its current or any former form of organization, and the addresses

and phone numbers used when such names were used;

(2) The name, address, and phone number of each current director, manager, and employee of the agency or person, and, for any such individual who previously served as a director, manager, or employee of another provider of adoption services, the name, address, and phone number of such other provider;

(3) The name, address, and phone number of any entity it uses or intends to use as a supervised provider; and

(4) The name, address, and phone number of all agencies or persons, non-profit organizations, or for-profit organizations that share with it any leadership, officers, board of directors, or family relationships, if such agency, person, or organization provides any service to, or receives any payment from, the agency or person.

Financial and Risk Management

§ 96.33 Budget, audit, insurance, and risk assessment requirements.

(a) The agency or person operates under a budget approved by its governing body, if applicable, for management of its funds. The budget discloses all remuneration (including perquisites) paid to the agency's or person's board of directors, managers, employees, and supervised providers.

(b) The agency's or person's finances are subject to annual internal review and oversight and are subject to independent audits every four years. The agency or person submits copies of internal financial review reports for inspection by the accrediting entity each year.

(c) The agency or person submits copies of each audit, as well as any accompanying management letter or qualified opinion letter, for inspection by the accrediting entity.

(d) The agency or person meets the financial reporting requirements of Federal and State laws and regulations.

(e) The agency's or person's balance sheets show that it operates on a sound financial basis and maintains on average sufficient cash reserves, assets, or other financial resources to meet its operating expenses for two months, taking into account its projected volume of cases and its size, scope, and financial commitments.

(f) The agency or person has a plan to transfer its intercountry adoption cases to an accredited agency or approved person if it ceases to provide or is no longer permitted to provide adoption services in intercountry adoption cases. The plan includes provisions for an organized transfer and reimbursement to clients of funds paid for services not yet rendered.

(g) If it accepts charitable donations, the agency or person has safeguards in place to ensure that such donations do not influence child placement decisions in any way.

(h) The agency or person assesses the risks it assumes, including by reviewing information on the availability of insurance coverage for intercountry adoption-related activities. The agency or person uses the assessment to meet the requirements in paragraph (i) of this section and as the basis for determining the type and amount of professional, general, directors' and officers', errors and omissions, and other liability insurance to carry.

(i) The agency or person maintains professional liability insurance in amounts reasonably related to its exposure to risk, but in no case in an amount less than $1,000,000 in the aggregate.

(j) The agency's or person's chief executive officer, chief financial officer, and other officers or employees with direct responsibility for financial transactions or financial management of the agency or person are bonded.

§ 96.34 Compensation.

(a) The agency or person does not compensate or offer to compensate any individual or entity involved in an intercountry adoption with an incentive fee or contingent fee for each child located or placed for adoption.

(b) The agency or person compensates its directors, officers, employees, supervised providers, individuals, and entities involved in an intercountry adoption only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis rather than a contingent fee basis.

(c) The agency or person does not make any payments, promise payment, or give other consideration to any individual or entity directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred. This does not prohibit an agency or person from providing in-kind or other donations not intended to influence or affect a particular adoption.

(d) The fees, wages, or salaries paid to the directors, officers, employees, supervised providers, individuals, or entities involved in an intercountry adoption on behalf of the agency or person, are not unreasonably high in relation to the services actually rendered, taking into account the country in which the services are provided and norms for compensation within the intercountry adoption community in that country, to the extent that such norms are known to the accrediting entity; the location, number, and qualifications of staff; workload requirements; budget; and size of the agency or person.

(e) Any other compensation paid or offered to the agency's or person's directors or members of its governing body is not unreasonably high in relation to the services rendered, taking into account the same factors listed in paragraph (d) of this section and its for-profit or nonprofit status.

(f) The agency or person identifies all vendors to whom clients are referred for non-adoption services and discloses to the accrediting entity and the agency's or person's clients, any corporate or financial arrangements and any family relationships with such vendors.

Ethical Practices and Responsibilities

§ 96.35 Suitability of agencies and persons to provide adoption services.

(a) The agency or person provides adoption services ethically and in accordance with the Convention's principles of:

(1) Ensuring that intercountry adoptions take place in the best interests of children; and

(2) Preventing the abduction, exploitation, sale, or trafficking of children.

(b) In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person discloses to the accrediting entity the following information related to the agency or person, under its current or any former name:

(1) Any instances in which the agency or person has lost the right to provide adoption services in any State or country, including the basis for such action(s);

(2) Any instances in which the agency or person was debarred or otherwise denied the authority to provide adoption services in any State or country, including the basis and disposition of such action(s);

(3) Any licensing suspensions for cause or other negative sanctions by oversight bodies against the agency or person, including the basis and disposition of such action(s);

(4) For the prior ten-year period, any disciplinary action(s) against the agency or person by a licensing or accrediting body, including the basis and disposition of such action(s);

(5) For the prior ten-year period, any written complaint(s) related to the

provision of adoption-related services, including the basis and disposition of such complaints, against the agency or person filed with any State or Federal or foreign regulatory body or court and of which the agency or person was notified;

(6) For the prior ten-year period, any known past or pending investigation(s) by Federal authorities, public domestic authorities, or by foreign authorities, criminal charge(s), child abuse charge(s), or lawsuit(s) against the agency or person, related to the provision of child welfare or adoption-related services, and the basis and disposition of such action(s);

(7) Any instances where the agency or person has been found guilty of any crime under Federal, State, or foreign law or has been found to have committed any civil or administrative violation involving financial irregularities under Federal, State, or foreign law;

(8) For the prior five-year period, any instances where the agency or person has filed for bankruptcy; and

(9) Descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that have been or are currently carried out by the agency or person, affiliate organizations, or by any organization in which the agency or person has an ownership or controlling interest.

(c) In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person (for its current or any former names) discloses to the accrediting entity the following information about its individual directors, officers, and employees:

(1) For the prior ten-year period, any conduct by any such individual related to the provision of adoption-related services that was subject to external disciplinary proceeding(s);

(2) Any convictions, formal disciplinary actions or known, current investigations of any such individual who is in a senior management position for acts involving financial irregularities;

(3) The results of a State criminal background check and a child abuse clearance for any such individual in the United States in a senior management position or who works directly with parent(s) and/or children (unless such checks have been included in the State licensing process); and

(4) Descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that are known to have been or are currently carried out by current individual directors, officers, or employees of the agency or person.

(d) In order to permit the accrediting entity to evaluate the suitability of a person who is an individual practitioner for approval, the individual:

(1) Provides the results of a State criminal background check and a child abuse clearance to the accrediting entity;

(2) If a lawyer, for every jurisdiction in which he or she has ever been admitted to the Bar, provides a certificate of good standing or an explanation of why he or she is not in good standing, accompanied by any relevant documentation, and immediately reports to the accrediting entity any disciplinary action considered by a State bar association, regardless of whether the action relates to intercountry adoption; and

(3) If a social worker, for every jurisdiction in which he or she has been licensed, provides a certificate of good standing or an explanation of why he or she is not in good standing, accompanied by any relevant documentation.

(e) In order to permit the accrediting entity to monitor the suitability of an agency or person, the agency or person must disclose any changes in the information required by this section within 30 business days of becoming aware of the change.

§ 96.36 Prohibition on child buying and inducement.

(a) The agency or person prohibits its employees and agents from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child. If permitted or required by the child's country of origin, an agency or person may remit reasonable payments for activities related to the adoption proceedings, pre-birth and birth medical costs, the care of the child, the care of the birth mother while pregnant and immediately following birth of the child, or the provision of child welfare and child protection services generally. Permitted or required contributions shall not be remitted as payment for the child or as an inducement to release the child.

(b) The agency or person has written policies and procedures in place reflecting the prohibitions in paragraph (a) of this section and reinforces them in its employee training programs. In order to monitor compliance, the agency's or person's policies and procedures require its employees and supervised providers to retain a record of all payments or fees tendered in connection with an intercountry adoption and the purposes for which they were paid for as long as adoption records are kept in accordance with § 96.42, and provide a copy thereof to the agency or person.

Professional Qualifications and Training for Employees

§ 96.37 Education and experience requirements for social service personnel.

(a) *Appropriate qualifications and credentials.* The agency or person only uses employees with appropriate qualifications and credentials to perform, in connection with an intercountry adoption, adoption-related social service functions that require the application of clinical skills and judgment (home studies, child background studies, counseling, parent preparation, post-placement, and other similar services).

(b) *State licensing, regulatory requirements.* The agency's or person's employees meet any State licensing or regulatory requirements for the services they are providing.

(c) *Application of clinical skills and judgment, training, or experience.* The agency's or person's executive director, the supervisor overseeing a case, or the social service employee providing adoption-related social services that require the application of clinical skills and judgment (home studies, child background studies, counseling, parent preparation, post-placement, and other similar services) has training or experience in the professional delivery of intercountry adoption services.

(d) *Supervisors.* The agency's or person's social work supervisors have prior experience in family and children's services, adoption, or intercountry adoption and either:

(1) A master's degree from an accredited program of social work;

(2) A master's degree (or doctorate) in a related human service field, including, but not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, or pastoral counseling; or

(3) In the case of a social work supervisor who was an incumbent at the time the Convention entered into force for the United States, the supervisor had significant skills and experience in intercountry adoption and had regular access for consultation purposes to an individual with the qualifications listed in paragraphs (d)(1) or (d)(2) of this section.

(e) *Non-supervisory employees.* The agency's or person's non-supervisory employees providing adoption-related social services that require the application of clinical skills and

judgment other than home studies or child background studies have either:

(1) A master's degree from an accredited program of social work or in another human service field; or

(2) A bachelor's degree from an accredited program of social work; or a combination of a bachelor's degree in any field and prior experience in family and children's services, adoption, or intercountry adoption; and

(3) Are supervised by an employee of the agency or person who meets the requirements for supervisors in paragraph (d) of this section.

(f) *Home studies.* The agency's or person's employees who conduct home studies:

(1) Are authorized or licensed to complete a home study under the laws of the States in which they practice;

(2) Meet the requirements for home study preparers in 8 CFR 204.301; and

(3) Are supervised by an employee of the agency or person who meets the requirements in paragraph (d) of this section.

(g) *Child background studies.* The agency's or person's employees who prepare child background studies:

(1) Are authorized or licensed to complete a child background study under the laws of the States in which they practice; and

(2) Are supervised by an employee of the agency or person who meets the requirements in paragraph (d) of this section.

§ 96.38 Training requirements for social service personnel.

(a) The agency or person provides newly hired employees who have adoption-related responsibilities involving the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, post-placement, and other similar services) with a comprehensive orientation to intercountry adoption that includes training on:

(1) The requirements of the Convention, the IAA, the UAA, the regulations implementing the IAA and the UAA, and other applicable Federal regulations;

(2) The INA provisions applicable to the immigration of children described in INA 101(b)(1)(F) and (G) and the applicable regulations contained in 8 CFR 204.3 and 204.300 through 204.314;

(3) The adoption laws of any foreign country where the agency or person provides adoption services;

(4) Relevant State laws;

(5) Ethical considerations in intercountry adoption and prohibitions on child-buying;

(6) The agency's or person's goals, ethical and professional guidelines, organizational lines of accountability, policies, and procedures; and

(7) The cultural diversity of the population(s) served by the agency or person.

(b) In addition to the orientation training required under paragraph (a) of this section, the agency or person provides initial training to newly hired or current employees whose responsibilities include providing adoption-related social services that involve the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, post-placement, and other similar services) that addresses:

(1) The factors in the countries of origin that lead to children needing adoptive families;

(2) Feelings of separation, grief, and loss experienced by the child with respect to the family of origin;

(3) Adverse childhood experiences, and attachment and post-traumatic stress disorders;

(4) Trauma-informed parenting;

(5) Physical, psychological, cognitive, and emotional issues facing children who have experienced trauma, abuse, including sexual abuse, or neglect, and/or whose parents' parental rights have been terminated;

(6) The long-term impact of institutionalization on child development;

(7) Outcomes for children placed for adoption internationally and the benefits of permanent family placements over other forms of government care;

(8) The impact of adoption on other children already in the home;

(9) How adoptive parents can support children who experience racism and discrimination;

(10) How adoptive parents can support and advocate for children discriminated against due to physical, cognitive, and other disabilities;

(11) The most frequent medical, and psychological problems experienced by children from the countries of origin served by the agency or person, and the possibility that such problems may not be reflected in the medical reports transmitted to prospective adoptive parents;

(12) The process of developing emotional ties to an adoptive family;

(13) Acculturation and assimilation issues, including those arising from factors such as race, ethnicity, religion, and culture and the impact of having been adopted internationally; and

(14) Child, adolescent, and adult development as affected by adoption.

(c) The agency or person ensures that employees who provide adoption-related social services that involve the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, post-placement, and other similar services) also receive, in addition to the orientation and initial training described in paragraphs (a) and (b) of this section, no less than 30 hours of training every two years, or more if required by State law, on current and emerging adoption practice issues through participation in seminars, conferences, documented distance learning courses, and other similar programs. Continuing education hours required under State law may count toward the 30 hours of training as long as the training is related to current and emerging adoption practice issues.

(d) The agency or person may exempt newly hired employees from elements of the orientation and initial training required in paragraphs (a) and (b) of this section if the newly hired individual was, within the previous two years, employed by an accredited or approved adoption service provider where they had received orientation training pursuant to paragraphs (a) and (b) of this section and §§ 96.39 and 96.40.

Information Disclosure, Fee Practices, and Quality Control Policies and Practices

§ 96.39 Information disclosure and quality control practices.

(a) The agency or person fully discloses in writing to the general public upon request and to prospective client(s) upon initial contact:

(1) Its adoption service policies and practices, including general eligibility criteria and fees;

(2) The supervised providers with whom the prospective client(s) can expect to work in the United States and in the child's country of origin and the usual costs associated with their services; and

(3) A sample written adoption services contract substantially like the one that the prospective client(s) will be expected to sign should they proceed.

(b) The agency or person discloses to client(s) and prospective client(s) that the following information is available upon request and makes such information available when requested:

(1) The number of its adoption placements per year for the prior three calendar years, and the number and percentage of those placements that remain intact, are disrupted, or have been dissolved as of the time the information is provided;

(2) The number of parents who apply to adopt on a yearly basis, based on data for the prior three calendar years; and

(3) The number of children eligible for adoption and awaiting an adoptive placement referral via the agency or person.

(c) The agency or person does not give preferential treatment to its board members, contributors, volunteers, employees, agents, consultants, or independent contractors with respect to the placement of children for adoption and has a written policy to this effect.

(d) The agency or person requires a client to sign a waiver of liability as part of the adoption service contract only where that waiver complies with applicable State law and these regulations. Any waiver required is limited and specific, based on risks that have been discussed and explained to the client in the adoption services contract.

(e) The agency or person cooperates with reviews, inspections, and audits by the accrediting entity or the Secretary.

(f) The agency or person uses the internet in the placement of individual children eligible for adoption only where:

(1) Such use is not prohibited by applicable State or Federal law or by the laws of the child's country of origin;

(2) Such use is subject to controls to avoid misuse and links to any sites that reflect practices that involve the sale, abduction, exploitation, or trafficking of children;

(3) Such use, if it includes photographs, is designed to identify children either who are currently waiting for adoption or who have already been adopted or placed for adoption (and who are clearly so identified); and

(4) Such use does not serve as a substitute for the direct provision of adoption services, including services to the child, the prospective adoptive parent(s), and/or the birth parent(s).

§ 96.40 Fee policies and procedures.

(a) The agency or person provides to all applicants, prior to application, a written schedule of expected total fees and estimated expenses and an explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded and when and how the fees and expenses must be paid.

(b) Before providing any adoption service to prospective adoptive parent(s), the agency or person itemizes and discloses in writing the following information for each separate category of fees and estimated expenses that the prospective adoptive parent(s) will be charged in connection with an intercountry adoption:

(1) *Home Study.* The expected total fees and estimated expenses for home study preparation and approval, whether the home study is to be prepared directly by the agency or person itself, or prepared by a supervised provider, exempted provider, or approved person, and approved as required under § 96.47;

(2) *Adoption expenses in the United States.* The expected total fees and estimated expenses for all adoption services other than the home study that will be provided in the United States. This category includes, but is not limited to, personnel costs, administrative overhead, operational costs, training and education, communications and publications costs, and any other costs related to providing adoption services in the United States;

(3) *Foreign Country Program Expenses.* The expected total fees and estimated expenses for all adoption services that will be provided in the child's country of origin. This category includes, but is not limited to, costs for personnel, administrative overhead, training, education, legal services, and communications, and any other costs related to providing adoption services, in the child's Convention country;

(4) *Care of the Child.* The expected total fees and estimated expenses charged to prospective adoptive parent(s) for the care of the child in the country of origin prior to adoption, including, but not limited to, costs for food, clothing, shelter and medical care; foster care services; orphanage care; and any other services provided directly to the child;

(5) *Translation and document expenses.* The expected total fees and estimated expenses for obtaining any necessary documents and for any translation of documents related to the adoption, along with information on whether the prospective adoptive parent(s) will be expected to pay such costs directly or to third parties, either in the United States or in the child's country of origin, or through the agency or person. This category includes, but is not limited to, costs for obtaining, translating, or copying records or documents required to complete the adoption, costs for the child's court documents, passport, adoption certificate and other documents related to the adoption, and costs for notarizations and certifications;

(6) *Contributions.* Any fixed contribution amount, or percentage that the prospective adoptive parent(s) will be expected or required to make to child protection or child welfare service programs in the child's country of origin country or in the United States, along with an explanation of the intended use of the transaction and the manner in which the contribution will be recorded and accounted for; and

(7) Post-placement and post-adoption reports. The expected total fees and estimated expenses for any post-placement or post-adoption reports that the agency or person or parent(s) must prepare in light of any requirements of the expected country of origin.

(c) If the following fees and estimated expenses were not disclosed as part of the categories identified in paragraph (b) of this section, the agency or person itemizes and discloses in writing any:

(1) Third party fees. The expected total fees and estimated expenses for services that the prospective adoptive parent(s) will be responsible to pay directly to a third party. Such third party fees include, but are not limited to, fees to competent authorities for services rendered or Central Authority processing fees; and

(2) Travel and accommodation expenses. The expected total fees and estimated expenses for any travel, transportation, and accommodation services arranged by the agency or person for the prospective adoptive parent(s).

(d) The agency or person also specifies in its adoption services contract when and how funds advanced to cover fees or expenses will be refunded if adoption services are not provided.

(e) When the agency or person uses part of its fees to provide special services, such as cultural programs for adoptee(s), scholarships or other services, it discloses this policy to the prospective adoptive parent(s) in advance of providing any adoption services and gives the prospective adoptive parent(s) a general description of the programs supported by such funds.

(f) The agency or person has mechanisms in place for transferring funds to foreign countries when the financial institutions of the foreign country so permit and for obtaining written receipts for such transfers, so that direct cash transactions by the prospective adoptive parent(s) to pay for adoption services provided in the Convention country are minimized or unnecessary.

(g) The agency or person does not customarily charge additional fees and expenses beyond those disclosed in the adoption services contract and has a written policy to this effect. In the event that unforeseen additional fees and expenses are incurred in the foreign

country, the agency or person charges such additional fees and expenses only under the following conditions:

(1) It discloses the fees and expenses in writing to the prospective adoptive parent(s);

(2) It obtains the specific consent of the prospective adoptive parent(s) prior to expending any funds in excess of $1,000 for which the agency or person will hold the prospective adoptive parent(s) responsible or gives the prospective adoptive parent(s) the opportunity to waive the notice consent requirement in advance. If the prospective adoptive parent(s) has the opportunity to waive the notice and consent requirement in advance, this policy is reflected in the written policies and procedures of the agency or person; and

(3) It provides written receipts to the prospective adoptive parent(s) for fees and expenses paid directly by the agency or person in the foreign country and retains copies of such receipts.

(h) The agency or person returns any funds to which the prospective adoptive parent(s) may be entitled within 60 days of the completion of the delivery of services.

Responding to Complaints and Records and Reports Management

§ 96.41 Procedures for responding to complaints and improving service delivery.

(a) The agency or person has written complaint policies and procedures that incorporate the standards in paragraphs (b) through (h) of this section and provides a copy of such policies and procedures, including contact information for the Complaint Registry, to client(s) at the time the adoption services contract is signed.

(b) The agency or person permits any birth parent, prospective adoptive parent or adoptive parent, or adoptee to lodge directly with the agency or person dated written or electronic (including by email or facsimile) complaints about any of the services or activities of the agency or person (including its use of supervised providers) that he or she believes raise an issue of compliance with the Convention, the IAA, the UAA, or the regulations implementing the IAA or UAA, and advises such individuals of the additional procedures available to them under subpart J of this part and the accrediting entity's policies and procedures if they are dissatisfied with the agency's or person's response to their complaint. All complaints must include the name of the complainant.

(c) The agency or person responds in writing to complaints received pursuant to paragraph (b) of this section within 30 days of receipt and provides expedited review of such complaints that are time-sensitive or that involve allegations of fraud.

(d) The agency or person maintains a written record of each complaint received pursuant to paragraph (b) of this section and the steps taken to investigate and respond to it and makes this record available to the accrediting entity or the Secretary upon request.

(e) The agency or person does not take any action to discourage a client or prospective client from, or retaliate against a client or prospective client for making a complaint; expressing a grievance; providing information in writing or interviews to an accrediting entity on the agency's or person's performance; or questioning the conduct of or expressing an opinion about the performance of an agency or person.

(f) The agency or person provides to the accrediting entity and the Secretary, on a semi-annual basis, a summary of all complaints received pursuant to paragraph (b) of this section during the preceding six months (including the number of complaints received and how each complaint was resolved) and an assessment of any discernible patterns in complaints received against the agency or person pursuant to paragraph (b) of this section, along with information about what systemic changes, if any, were made or are planned by the agency or person in response to such patterns.

(g) The agency or person provides any information about complaints received pursuant to paragraph (b) of this section as may be requested by the accrediting entity or the Secretary.

(h) The agency or person has a quality improvement program appropriate to its size and circumstances through which it makes systematic efforts to improve its adoption services as needed. The agency or person uses quality improvement methods such as reviewing complaint data, using client satisfaction surveys, or comparing the agency's or person's practices and performance against the data contained in the Secretary's annual reports to Congress on intercountry adoptions.

§ 96.42 Retention, preservation, and disclosure of adoption records.

(a) The agency or person retains or archives adoption records in a safe, secure, and retrievable manner for the period of time required by applicable State law.

(b) The agency or person makes readily available to the adoptee and the adoptive parent(s) of minor children upon request all information in its custody about the adoptee's health history or background, to the extent permitted by State law.

(c) The agency or person ensures that personal data gathered or transmitted in connection with an adoption is used only for the purposes for which the information was gathered and safeguards sensitive individual information.

(d) The agency or person has a plan that is consistent with the provisions of this section, the plan required under § 96.33, and applicable State law for transferring custody of adoption records that are subject to retention or archival requirements to an appropriate custodian, and ensuring the accessibility of those adoption records, in the event that the agency or person ceases to provide or is no longer permitted to provide adoption services in intercountry adoption cases.

(e) The agency or person notifies the accrediting entity and the Secretary in writing within 30 days of the time it ceases to provide or is no longer permitted to provide adoption services and provides information about the transfer of its adoption records.

§ 96.43 Case tracking, data management, and reporting.

(a) When acting as the primary provider, the agency or person maintains all the data required in this section in a format approved by the accrediting entity and provides it to the accrediting entity on an annual basis.

(b) When acting as the primary provider, the agency or person routinely generates and maintains reports as follows:

(1) For cases involving children immigrating to the United States, information and reports on the total number of Convention and non-Convention adoptions undertaken by the agency or person each year and, for each case:

(i) The foreign country from which the child emigrated;

(ii) The State to which the child immigrated;

(iii) The State or foreign country in which the adoption was finalized;

(iv) The age of the child; and

(v) The date of the child's placement for adoption.

(2) For cases involving children emigrating from the United States, information and reports on the total number of Convention and non-Convention adoptions undertaken by the agency or person each year and, for each case:

(i) The State from which the child emigrated;

(ii) The foreign country to which the child immigrated;

(iii) The State or foreign country in which the adoption was finalized;

(iv) The age of the child; and

(v) The date of the child's placement for adoption.

(3) For each disrupted placement involving an intercountry adoption, information and reports about the disruption, including information on:

(i) The foreign country from which the child emigrated;

(ii) The State to which the child immigrated;

(iii) The age of the child;

(iv) The date of the child's placement for adoption;

(v) The reason(s) for and resolution(s) of the disruption of the placement for adoption, including information on the child's re-placement for adoption and final legal adoption;

(vi) The names of the agencies or persons that handled the placement for adoption; and

(vii) The plans for the child;

(4) Wherever possible, for each dissolution of an intercountry adoption, information and reports on the dissolution, including information on:

(i) The foreign country from which the child emigrated;

(ii) The State to which the child immigrated;

(iii) The age of the child;

(iv) The date of the child's placement for adoption;

(v) The reason(s) for and resolution(s) of the dissolution of the adoption, to the extent known by the agency or person;

(vi) The names of the agencies or persons that handled the placement for adoption; and

(vii) The plans for the child.

(5) Information on the shortest, longest, and average length of time it takes to complete an intercountry adoption, set forth by the child's country of origin, calculated from the time the child is matched with the prospective adoptive parent(s) until the time the adoption is finalized by a court, excluding any period for appeal.

(6) Information on the range of adoption fees, including the lowest, highest, average, and the median of such fees, set forth by the child's country of origin, charged by the agency or person for intercountry adoptions involving children immigrating to the United States in connection with their adoption.

(c) If the agency or person provides adoption services in cases not subject to the Convention that involve a child emigrating from the United States for the purpose of adoption or after an adoption has been finalized, it provides such information as required by the Secretary directly to the Secretary and demonstrates to the accrediting entity that it has provided this information.

(d) The agency or person provides any of the information described in paragraphs (a) through (c) of this section to the accrediting entity or the Secretary within thirty days of request.

Service Planning and Delivery

§ 96.44 Acting as primary provider.

(a) When required by § 96.14(a), the agency or person acts as primary provider and adheres to the provisions in § 96.14(b) through (e). When acting as the primary provider, the agency or person develops and implements a service plan for providing all adoption services and provides all such services, either directly or through arrangements with supervised providers, exempted providers, public domestic authorities, competent authorities, Central Authorities, public foreign authorities, or, to the extent permitted by § 96.14(c), other foreign providers (agencies, persons, or other non-governmental entities).

(b) The agency or person has an organizational structure, financial and personnel resources, and policies and procedures in place that demonstrate that the agency or person is capable of acting as a primary provider in any intercountry adoption case and, when acting as 0the primary provider, provides appropriate supervision to supervised providers, and verifies the work of other foreign providers in accordance with §§ 96.45 and 96.46.

§ 96.45 Using supervised providers in the United States.

(a) The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider:

(1) Is in compliance with applicable State licensing and regulatory requirements in all jurisdictions in which it provides adoption services;

(2) In providing any adoption service, complies with the relevant section of the Convention, the IAA, the UAA, and regulations implementing the IAA and the UAA for the particular adoption service being provided;

(3) Does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children; and

(4) Before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in § 96.35.

(b) The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider operates under a written agreement with the primary provider that:

(1) Identifies clearly the adoption service(s) to be provided by the supervised provider and requires that the service(s) be provided in accordance with the applicable service standard(s) for accreditation and approval (for example: home study (§ 96.47); parent training (§ 96.48); child background studies and consent (§ 96.53));

(2) Requires the supervised provider to comply with the following standards regardless of the type of adoption services it is providing: § 96.36 (prohibition on child buying), § 96.34 (compensation), § 96.38 (employee training), § 96.39(d) (waivers of liability), and § 96.41(b) through (e) (complaints);

(3) Identifies specifically the lines of authority between the primary provider and the supervised provider, the employee of the primary provider who will be responsible for supervision, and the employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;

(4) States clearly the compensation arrangement for the services to be provided and the fees and expenses to be charged by the supervised provider;

(5) Specifies whether the supervised provider's fees and expenses will be billed to and paid by the client(s) directly or billed to the client through the primary provider;

(6) Provides that, if billing the client(s) directly for its service, the supervised provider will give the client(s) an itemized bill of all fees and expenses to be paid, with a written explanation of how and when such fees and expenses will be refunded if the service is not completed, and will return any funds collected to which the client(s) may be entitled within 60 days of the completion of the delivery of services;

(7) Requires the supervised provider to meet the same personnel qualifications as accredited agencies and approved persons, as provided for in § 96.37, except that, for purposes of § 96.37(e)(3), (f)(3), and (g)(2), the work of the employee must be supervised by an employee of an accredited agency or approved person;

(8) Requires the supervised provider to limit the use of and safeguard personal data gathered or transmitted in connection with an adoption, as provided for in § 96.42;

(9) Requires the supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or an accrediting entity with jurisdiction over the primary provider;

(10) Requires the supervised provider to provide the primary provider on a timely basis any data that is necessary to comply with the primary provider's reporting requirements;

(11) Requires the supervised provider to disclose promptly to the primary provider any changes in the suitability information required by § 96.35; and

(12) Permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the supervised provider is not in compliance with the agreement or the requirements of this section.

§ 96.46 Using providers in foreign countries.

(a) The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in foreign countries, ensures that each such foreign supervised provider:

(1) Is in compliance with the laws of the foreign country in which it operates;

(2) Does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children;

(3) Before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in § 96.35, taking into account the authorities in the foreign country that are analogous to the authorities identified in that section;

(4) Does not have a pattern of licensing suspensions or other sanctions and has not lost the right to provide adoption services in any jurisdiction for reasons germane to the Convention or the Convention's principles of furthering the best interests of the child and preventing the abduction, exploitation, sale, or trafficking of children; and

(5) Is accredited in the foreign country in which it operates, if such accreditation is required by the laws of that foreign country to perform the adoption services it is providing.

(b) The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in foreign countries, ensures that each such foreign supervised provider operates under a written agreement with the primary provider that:

(1) Identifies clearly the adoption service(s) to be provided by the foreign supervised provider;

(2) Requires the foreign supervised provider, if responsible for obtaining medical or social information on the child, to comply with the standards in § 96.49(d) through (j);

(3) Requires the foreign supervised provider to adhere to the standard in § 96.36(a) prohibiting child buying and to have written policies and procedures in place reflecting the prohibitions in § 96.36(a) and to reinforce them in training programs for its employees and agents;

(4) Requires the foreign supervised provider to compensate its directors, officers, and employees who provide intercountry adoption services on a fee-for-service, hourly wage, or salary basis, rather than based on whether a child is placed for adoption, located for an adoptive placement, or on a similar contingent fee basis;

(5) Identifies specifically the lines of authority between the primary provider and the foreign supervised provider, the employee of the primary provider who will be responsible for supervision, and the employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;

(6) States clearly the compensation arrangement for the services to be provided and the fees and expenses to be charged by the foreign supervised provider;

(7) Specifies that the foreign supervised provider's fees and expenses will be billed to and paid by the client(s) through the primary provider. The primary provider provides a written explanation of how and when such fees and expenses will be refunded if the service is not provided or completed, and will return any funds collected to which the client(s) may be entitled within 60 days of the completion of the delivery of services;

(8) Requires the foreign supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or the accrediting entity that issued the primary provider's accreditation or approval;

(9) Requires the foreign supervised provider to provide the primary provider on a timely basis any data that is necessary to comply with the primary provider's reporting requirements;

(10) Requires the foreign supervised provider to disclose promptly to the primary provider any changes in the suitability information required by § 96.35; and

(11) Permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the foreign supervised provider is not in compliance with the agreement or the requirements of this section.

(c) The agency or person, when acting as the primary provider and, in accordance with § 96.14, using foreign providers that are not under its supervision, verifies, through review of the relevant documentation and other appropriate steps, that:

(1) Any necessary consent to termination of parental rights or to adoption obtained by the foreign provider was obtained in accordance with applicable foreign law and Article 4 of the Convention;

(2) Any background study and report on a child in a case involving immigration to the United States (an incoming case) performed by the foreign provider was performed in accordance with applicable foreign law and Article 16 of the Convention.

(3) Any home study and report on prospective adoptive parent(s) in a case involving emigration from the United States (an outgoing case) performed by the foreign provider was performed in accordance with applicable foreign law and Article 15 of the Convention.

Standards for Cases in Which a Child Is Immigrating to the United States (Incoming Cases)

§ 96.47 Preparation of home studies in incoming cases.

(a) The agency or person ensures that a home study on the prospective adoptive parent(s) (which for purposes of this section includes the initial report and any supplemental update(s) submitted to DHS) is completed that includes the following:

(1) Information about the identity, eligibility and suitability of the prospective adoptive parent(s) to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, and the characteristics of the children for whom the prospective adoptive parent(s) would be qualified to care (specifying in particular whether they are willing and able to care for a child with special needs);

(2) A determination of the eligibility and suitability of the prospective adoptive parent(s) to adopt;

(3) A statement describing the counseling, preparation, and training provided to the prospective adoptive parent(s);

(4) The results of a criminal background check on the prospective

adoptive parent(s) and any other individual for whom a check is required by 8 CFR 204.311;

(5) A full and complete statement of all facts relevant to the eligibility and suitability of the prospective adoptive parent(s) to adopt a child under any specific requirements identified to the Secretary by the Central Authority of the child's country of origin; and

(6) A statement in each copy of the home study that it is a true and accurate copy of the home study that was provided to the prospective adoptive parent(s) or DHS.

(b) The agency or person ensures that the home study is performed in accordance with 8 CFR 204.311 and any applicable State law.

(c) Where the home study is not performed in the first instance by an accredited agency, the agency or person ensures that the home study is reviewed and approved in writing by an accredited agency. The written approval must include a determination that the home study:

(1) Includes all of the information required by paragraph (a) of this section and is performed in accordance with 8 CFR 204.311, and applicable State law; and

(2) Was performed by an individual who meets the requirements in § 96.37(f), or, if the individual is an exempted provider, ensures that the individual meets the requirements for home study providers established by 8 CFR 204.301.

(d) The agency or person takes all appropriate measures to ensure the timely transmission of the same home study that was provided to the prospective adoptive parent(s) or to DHS to the Central Authority of the child's country of origin (or to an alternative authority designated by that Central Authority).

(e) If, based on new information relating to paragraph (a)(1) of this section or 8 CFR 204.311, the agency or person withdraws its recommendation of the prospective adoptive parent(s) for adoption, or the agency that reviewed and approved a home study withdraws any such approval of the home study required under paragraph (c) of this section, the agency or person must:

(1) Notify the prospective adoptive parent(s), and if applicable, the home study preparer and primary provider, of its withdrawal of its recommendation and/or approval and the reasons for its withdrawal, in writing, within 5 business days of the decision, and prior to notifying USCIS;

(2) Notify USCIS of its withdrawal of its recommendation and/or approval and the reasons for its withdrawal, in writing, and within 5 business days of notifying the prospective adoptive parent(s), in accordance with the agency's or person's ethical practices and responsibilities under § 96.35(a); and

(3) Maintain written records of the withdrawal of its recommendation and/or approval, the step(s) taken to reach such decision, and the reasons for the withdrawal.

§ 96.48 Preparation and training of prospective adoptive parent(s) in incoming cases.

(a) The agency or person provides prospective adoptive parent(s) with at least ten hours (independent of the home study) of preparation and training, as described in paragraphs (b) and (c) of this section, designed to promote a successful intercountry adoption. The agency or person provides such training before the prospective adoptive parent(s) travel to adopt the child or the child is placed with the prospective adoptive parent(s) for adoption.

(b) The training provided by the agency or person addresses the following topics:

(1) The intercountry adoption process, the general characteristics and needs of children awaiting adoption, and the in-country conditions that affect children in the foreign country from which the prospective adoptive parent(s) plan to adopt;

(2) The effects on children of malnutrition, relevant environmental toxins, maternal substance abuse, and of any other known genetic, health, emotional, and developmental risk factors associated with children from the expected country of origin;

(3) Information about the impact on a child of leaving familiar ties and surroundings, as appropriate to the expected age of the child;

(4) Data on institutionalized children and the impact of institutionalization on children, including the effect on children of the length of time spent in an institution and of the type of care provided in the expected country of origin;

(5) Information on attachment disorders and other emotional problems that institutionalized or traumatized children and children with a history of multiple caregivers may experience, before and after their adoption;

(6) Information on the laws and adoption processes of the expected country of origin, including foreseeable delays and impediments to finalization of an adoption;

(7) Information on the long-term implications for a family that has become multicultural through intercountry adoption; and

(8) An explanation of any reporting requirements associated with intercountry adoptions, including any post-placement or post-adoption reports required by the expected country of origin.

(c) The agency or person also provides the prospective adoptive parent(s) with training that allows them to be as fully prepared as possible for the adoption of a particular child. This includes counseling on:

(1) The child's history and cultural, racial, religious, ethnic, and linguistic background;

(2) The known health risks in the specific region or country where the child resides; and

(3) Any other medical, social, background, birth history, educational data, developmental history, or any other data known about the particular child.

(d) The agency or person provides such training through appropriate methods, including:

(1) Collaboration among agencies or persons to share resources to meet the training needs of prospective adoptive parents;

(2) Group seminars offered by the agency or person or other agencies or training entities;

(3) Individual counseling sessions;

(4) Video, computer-assisted, or distance learning methods using standardized curricula; or

(5) In cases where training cannot otherwise be provided, an extended home study process, with a system for evaluating the thoroughness with which the topics have been covered.

(e) The agency or person provides additional in-person, individualized counseling and preparation, as needed, to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.

(f) The agency or person provides the prospective adoptive parent(s) with information about print, internet, and other resources available for continuing to acquire information about common behavioral, medical, and other issues; connecting with parent support groups, adoption clinics and experts; and seeking appropriate help when needed.

(g) The agency or person exempts prospective adoptive parent(s) from all or part of the training and preparation that would normally be required for a specific adoption only when the agency or person determines that the

prospective adoptive parent(s) have received adequate prior training or have prior experience as parent(s) of children adopted from abroad.

(h) The agency or person records the nature and extent of the training and preparation provided to the prospective adoptive parent(s) in the adoption record.

§ 96.49 Provision of medical and social information in incoming cases.

(a) The agency or person provides a copy of the child's medical records (including, to the fullest extent practicable, a correct and complete English-language translation of such records) to the prospective adoptive parent(s) as early as possible, but no later than two weeks before either the adoption or placement for adoption, or the date on which the prospective adoptive parent(s) travel to the foreign country to complete all procedures in such country relating to the adoption or placement for adoption, whichever is earlier.

(b) Where any medical record provided pursuant to paragraph (a) of this section is a summary or compilation of other medical records, the agency or person includes those underlying medical records in the medical records provided pursuant to paragraph (a) of this section if they are available.

(c) The agency or person provides the prospective adoptive parent(s) with any untranslated medical reports or video or other reports and provides an opportunity for the client(s) to arrange for their own translation of the records, including a translation into a language other than English, if needed.

(d) The agency or person itself uses reasonable efforts, or requires its supervised provider in the child's country of origin who is responsible for obtaining medical information about the child on behalf of the agency or person to use reasonable efforts, to obtain available information, including in particular:

(1) The date that the foreign country or other child welfare authority assumed custody of the child and the child's condition at that time;

(2) History of any significant illnesses, hospitalizations, special needs, and changes in the child's condition since the foreign country or other child welfare authority assumed custody of the child;

(3) Growth data, including prenatal and birth history, and developmental status over time and current developmental data at the time of the child's referral for adoption; and

(4) Specific information on the known health risks in the specific region or country where the child resides.

(e) When the agency or person provides medical information, other than the information provided by public foreign authorities, to the prospective adoptive parent(s) from an examination by a physician or from an observation of the child by someone who is not a physician, the agency or person uses reasonable efforts to include the following:

(1) The name and credentials of the physician who performed the examination or the individual who observed the child;

(2) The date of the examination or observation; how the report's information was retained and verified; and if anyone directly responsible for the child's care has reviewed the report;

(3) If the medical information includes references, descriptions, or observations made by any individual other than the physician who performed the examination or the individual who performed the observation, the identity of that individual, the individual's training, and information on what data and perceptions the individual used to draw his or her conclusions;

(4) A review of hospitalizations, significant illnesses, and other significant medical events, and the reasons for them;

(5) Information about the full range of any tests performed on the child, including tests addressing known risk factors in the child's country of origin; and

(6) Current health information.

(f) The agency or person itself uses reasonable efforts, or requires its supervised provider in the child's country of origin who is responsible for obtaining social information about the child on behalf of the agency or person to use reasonable efforts, to obtain available information, including in particular:

(1) Information about the child's birth family and prenatal history and cultural, racial, religious, ethnic, and linguistic background;

(2) Information about all of the child's past and current placements prior to adoption, including, but not limited to any social work or court reports on the child and any information on who assumed custody and provided care for the child; and

(3) Information about any birth siblings whose existence is known to the agency or person, or its supervised provider, including information about such siblings' whereabouts.

(g) Where any of the information listed in paragraphs (d), (e), and (f) of this section cannot be obtained, the agency or person documents in the adoption record the efforts made to obtain the information and why it was not obtainable. The agency or person continues to use reasonable efforts to secure those medical or social records that could not be obtained up until the adoption is finalized.

(h) Where available, the agency or person provides information for contacting the examining physician or the individual who made the observations to any physician engaged by the prospective adoptive parent(s), upon request.

(i) The agency or person ensures that any video and photographs of the child taken by the agency or person (including by their supervised providers) are identified by the date on which the video or photograph was recorded or taken and that they were made in compliance with the laws in the country where recorded or taken.

(j) The agency or person does not withhold from or misrepresent to the prospective adoptive parent(s) any available medical, social, or other pertinent information concerning the child.

(k) The agency or person does not withdraw a referral until the prospective adoptive parent(s) have had two weeks (unless extenuating circumstances involving the child's best interests require a more expedited decision) to consider the needs of the child and their ability to meet those needs, and to obtain physician review of medical information and other descriptive information, including video of the child if available.

§ 96.50 Placement and post-placement monitoring until final adoption in incoming cases.

(a) The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the prospective adoptive parent(s).

(b) In the post-placement phase, the agency or person monitors and supervises the child's placement to ensure that the placement remains in the best interests of the child, and ensures that at least the number of home visits required by State law or by the child's country of origin are performed, whichever is greater.

(c) When a placement for adoption is in crisis in the post-placement phase, the agency or person makes an effort to provide or arrange for counseling by an individual with appropriate skills to

assist the family in dealing with the problems that have arisen.

(d) If counseling does not succeed in resolving the crisis and the placement is disrupted, the agency or person assuming custody of the child assumes responsibility for making another placement of the child.

(e) The agency or person acts promptly and in accord with any applicable legal requirements to remove the child when the placement may no longer be in the child's best interests, to provide temporary care, to find an eventual adoptive placement for the child, and, in consultation with the Secretary, to inform the Central Authority of the child's country of origin about any new prospective adoptive parent(s).

(1) In all cases where removal of a child from a placement is considered, the agency or person considers the child's views when appropriate in light of the child's age and maturity and, when required by State law, obtains the consent of the child prior to removal.

(2) The agency or person does not return from the United States a child placed for adoption in the United States unless the Central Authority of the country of origin and the Secretary have approved the return in writing.

(f) The agency or person includes in the adoption services contract with the prospective adoptive parent(s) a plan describing the agency's or person's responsibilities if a placement for adoption is disrupted. This plan addresses:

(1) Who will have legal and financial responsibility for transfer of custody in an emergency or in the case of impending disruption and for the care of the child;

(2) If the disruption takes place after the child has arrived in the United States, under what circumstances the child will, as a last resort, be returned to the child's country of origin, if that is determined to be in the child's best interests;

(3) How the child's wishes, age, length of time in the United States, and other pertinent factors will be taken into account; and

(4) How the Central Authority of the child's country of origin and the Secretary will be notified.

(g) The agency or person provides post-placement reports until final adoption of a child to the foreign country when required by the foreign country. Where such reports are required, the agency or person:

(1) Informs the prospective adoptive parent(s) in the adoption services contract of the requirement prior to the referral of the child for adoption;

(2) Informs the prospective adoptive parent(s) that they will be required to provide all necessary information for the report(s); and

(3) Discloses who will prepare the reports and the fees that will be charged.

(h) The agency or person takes steps to:

(1) Ensure that an order declaring the adoption as final is sought by the prospective adoptive parent(s), and in Convention adoptions is entered in compliance with section 301(c) of the IAA (42 U.S.C. 14931(c)); and

(2) Notify the Secretary of the finalization of the adoption within thirty days of the entry of the order.

§ 96.51 Post-adoption services in incoming cases.

(a) The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s).

(b) The agency or person informs the prospective adoptive parent(s) in the adoption services contract whether the agency or person will or will not provide any post-adoption services. The agency or person also informs the prospective adoptive parent(s) in the adoption services contract whether it will provide services if an adoption is dissolved, and, if it indicates it will, it provides a plan describing the agency's or person's responsibilities, or if it will not, provides information about entities that may be consulted for assistance in the event an adoption is dissolved.

(c) When post-adoption reports are required by the child's country of origin, the agency or person includes a requirement for such reports in the adoption services contract and makes good-faith efforts to encourage adoptive parent(s) to provide such reports.

(d) The agency or person does not return from the United States an adopted child whose adoption has been dissolved unless the Central Authority of the country of origin and the Secretary have approved the return in writing.

§ 96.52 Performance of communication and coordination functions in incoming cases.

(a) The agency or person keeps the Central Authority of the foreign country and the Secretary informed as necessary about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

(b) The agency or person takes all appropriate measures, consistent with the procedures of the U.S. Central Authority and of the foreign country, to:

(1) Transmit on a timely basis to the Central Authority or other competent authority in the child's country of origin the home study, including any updates required by such competent authority in the child's country of origin;

(2) Obtain the child background study, proof that the necessary consents to the child's adoption have been obtained, and the necessary determination that the prospective placement is in the child's best interests, from the Central Authority or other competent authority in the child's country of origin;

(3) Provide confirmation that the prospective adoptive parent(s) agree to the adoption to the Central Authority or other competent authority in the child's country of origin; and

(4) Transmit the determination that the child is or will be authorized to enter and reside permanently in the United States to the Central Authority or other competent authority in the child's country of origin, or confirm that this information has been transmitted to the foreign country's Central Authority or other competent authority by the U.S. Central Authority.

(c) The agency or person takes all necessary and appropriate measures, consistent with the procedures of the foreign country, to obtain permission for the child to leave his or her country of origin and to enter and reside permanently in the United States.

(d) When the transfer of the child does not take place, the agency or person must consider the specific requirements, if any, of competent authorities in the State and/or in the child's country of origin and the preference of prospective adoptive parents in its determination of the disposition of the home study on the prospective adoptive parent(s) and/or the child background study.

(e) The agency or person takes all necessary and appropriate measures to perform any tasks in an intercountry adoption case that the Secretary has identified, consistent with this part, as required to comply with the Convention, the IAA, the UAA, or any regulations implementing the IAA and the UAA.

Standards for Convention Cases in Which a Child Is Emigrating From the United States (Outgoing Cases)

§ 96.53 Background studies on the child and consents in outgoing Convention cases.

(a) The agency or person takes all appropriate measures to ensure that a child background study is performed

that includes information about the child's identity, adoptability, background, social environment, family history, medical history (including that of the child's family), and any special needs of the child. The child background study must include the following:

(1) Information that demonstrates that consents were obtained in accordance with paragraph (c) of this section;

(2) Information that demonstrates consideration of the child's wishes and opinions in accordance with paragraph (d) of this section; and

(3) Information that confirms that the child background study was prepared either by an exempted provider or by an individual who meets the requirements set forth in § 96.37(g).

(b) Where the child background study is not prepared in the first instance by an accredited agency, the agency or person ensures that the child background study is reviewed and approved in writing by an accredited agency. The written approval must include a determination that the background study includes all the information required by paragraph (a) of this section.

(c) The agency or person takes all appropriate measures to ensure that consents have been obtained as follows:

(1) The persons, institutions, and authorities whose consent is necessary for adoption have been counseled as necessary and duly informed of the effects of their consent, in particular, whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin;

(2) All such persons, institutions, and authorities have given their consents;

(3) The consents have been expressed or evidenced in writing in the required legal form, have been given freely, were not induced by payments or compensation of any kind, and have not been withdrawn;

(4) The consent of the mother, where required, was executed after the birth of the child;

(5) The child, as appropriate in light of his or her age and maturity, has been counseled and duly informed of the effects of the adoption and of his or her consent to the adoption; and

(6) The child's consent, where required, has been given freely, in the required legal form, and expressed or evidenced in writing and not induced by payment or compensation of any kind.

(d) If the child is 12 years of age or older, or as otherwise provided by State law, the agency or person gives due consideration to the child's wishes or opinions before determining that an intercountry placement is in the child's best interests.

(e) The agency or person prior to the child's adoption takes all appropriate measures to transmit to the Central Authority or other competent authority or accredited bodies of the Convention country the child background study, proof that the necessary consents have been obtained, and the reasons for its determination that the placement is in the child's best interests. In doing so, the agency or person, as required by Article 16(2) of the Convention, does not reveal the identity of the mother or the father if these identities may not be disclosed under State law.

§ 96.54 Placement standards in outgoing Convention cases.

(a) Except in the case of adoption by relatives or in the case in which the birth parent(s) have identified specific prospective adoptive parent(s) or in other special circumstances accepted by the State court with jurisdiction over the case, the agency or person makes reasonable efforts to find a timely adoptive placement for the child in the United States by:

(1) Disseminating information on the child and his or her availability for adoption through print, media, and internet resources designed to communicate with potential prospective adoptive parent(s) in the United States;

(2) Listing information about the child on a national or State adoption exchange or registry for at least 60 calendar days after the birth of the child;

(3) Responding to inquiries about adoption of the child; and

(4) Providing a copy of the child background study to potential U.S. prospective adoptive parent(s).

(b) The agency or person demonstrates to the satisfaction of the State court with jurisdiction over the adoption that sufficient reasonable efforts (including no efforts, when in the best interests of the child) to find a timely and qualified adoptive placement for the child in the United States were made.

(c) In placing the child for adoption, the agency or person:

(1) To the extent consistent with State law, gives significant weight to the placement preferences expressed by the birth parent(s) in all voluntary placements;

(2) To the extent consistent with State law, makes diligent efforts to place siblings together for adoption and, where placement together is not possible, to arrange for contact between separated siblings, unless it is in the best interests of one of the siblings that such efforts or contact not take place; and

(3) Complies with all applicable requirements of the Indian Child Welfare Act.

(d) The agency or person complies with any State law requirements pertaining to the provision and payment of independent legal counsel for birth parents. If State law requires full disclosure to the birth parent(s) that the child is to be adopted by parent(s) who reside outside the United States, the agency or person provides such disclosure.

(e) The agency or person takes all appropriate measures to give due consideration to the child's upbringing and to his or her ethnic, religious, and cultural background.

(f) When particular prospective adoptive parent(s) in a Convention country have been identified, the agency or person takes all appropriate measures to determine whether the envisaged placement is in the best interests of the child, on the basis of the child background study and the home study on the prospective adoptive parent(s).

(g) The agency or person thoroughly prepares the child for the transition to the Convention country, using age-appropriate services that address the child's likely feelings of separation, grief, and loss and difficulties in making any cultural, religious, racial, ethnic, or linguistic adjustment.

(h) The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s) or the prospective adoptive parent(s).

(i) Before the placement for adoption proceeds, the agency or person identifies the entity in the receiving country that will provide post-placement supervision and reports, if required by State law, and ensures that the child's adoption record contains the information necessary for contacting that entity.

(j) The agency or person ensures that the child's adoption record includes the order granting the adoption or legal custody for the purpose of adoption in the Convention country.

(k) The agency or person consults with the Secretary before arranging for the return to the United States of any child who has emigrated to a Convention country in connection with the child's adoption.

§ 96.55 Performance of Convention communication and coordination functions in outgoing Convention cases.

(a) The agency or person keeps the Central Authority of the Convention country and the Secretary informed as necessary about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

(b) The agency or person ensures that:

(1) Copies of all documents from the State court proceedings, including the order granting the adoption or legal custody, are provided to the Secretary;

(2) Any additional information on the adoption is transmitted to the Secretary promptly upon request; and

(3) It otherwise facilitates, as requested, the Secretary's ability to provide the certification that the child has been adopted or that custody has been granted for the purpose of adoption, in accordance with the Convention and the IAA.

(c) When transfer of the child does not take place, the agency or person must consider the specific requirements, if any, of competent authorities in either the State or in the receiving country and the preference of the prospective adoptive parents in its determination of the disposition of the home study on the prospective adoptive parent(s) and/or the child background study.

(d) The agency or person provides to the State court with jurisdiction over the adoption:

(1) Proof that consents have been given as required in § 96.53(c);

(2) A copy in English or certified English translation of the home study on the prospective adoptive parent(s) in the Convention country, and the determination by the agency or person that the placement with the prospective adoptive parent(s) is in the child's best interests;

(3) Evidence that the prospective adoptive parent(s) in the Convention country agree to the adoption;

(4) Evidence that the child will be authorized to enter and reside permanently in the Convention country or on the same basis as that of the prospective adoptive parent(s); and

(5) Evidence that the Central Authority of the Convention country has agreed to the adoption, if such consent is necessary under its laws for the adoption to become final.

(e) The agency or person makes the showing required by § 96.54(b) to the State court with jurisdiction over the adoption.

(f) The agency or person takes all necessary and appropriate measures to perform any tasks in a Convention adoption case that the Secretary has identified, consistent with this Part, as required to comply with the Convention, the IAA, or any regulations implementing the IAA.

§ 96.56 [Reserved]

■ 7. Revise subpart L to read as follows:

Subpart L—Oversight of Accredited Agencies and Approved Persons by the Secretary

Sec.

Subpart L—Oversight of Accredited Agencies and Approved Persons by the Secretary

§ 96.81 Scope.

The provisions in this subpart establish the procedures governing adverse action by the Secretary against accredited agencies and approved persons.

§ 96.82 The Secretary's response to actions by the accrediting entity.

(a) There is no administrative review by the Secretary of an accrediting entity's decision to deny accreditation or approval, nor of any decision by an accrediting entity to take an adverse action.

(b) When informed by an accrediting entity that an agency has been accredited or a person has been approved, the Secretary will take appropriate steps to ensure that relevant information about the accredited agency or approved person is provided to the Permanent Bureau of the Hague Conference on Private International Law. When informed by an accrediting entity that it has taken an adverse action that impacts an agency's or person's accreditation or approval status, the Secretary will take appropriate steps to inform the Permanent Bureau of the Hague Conference on Private International Law.

§ 96.83 Suspension or cancellation of accreditation or approval by the Secretary.

(a) The Secretary must suspend or cancel the accreditation or approval granted by an accrediting entity when the Secretary finds, in the Secretary's discretion, that the agency or person is substantially out of compliance with the standards in subpart F of this part and that the accrediting entity has failed or refused, after consultation with the Secretary, to take appropriate enforcement action.

(b) The agency or person shall be provided with written notice of cancellation or suspension by the Secretary, which shall include:

(1) The reasons for the suspension or cancellation in terms sufficient to put the agency or person on notice of the conduct or transaction(s) upon which it is based;

(2) The standards in subpart F of this part with which the agency or person is out of compliance;

(3) The effect of the suspension or cancellation, including the agency's or person's responsibility to cease providing adoption services and, if applicable, its responsibilities with respect to the transfer of cases and the return of fees; and

(4) Copies of any evidence relied on by the Department in support of the suspension or cancellation.

(c) If the Secretary suspends or cancels the accreditation or approval of an agency or person, the Secretary will take appropriate steps to notify the accrediting entity(ies), USCIS, the Permanent Bureau of the Hague Conference on Private International Law, State licensing authorities, the Central Authorities in the countries where the agency or person operates, and other authorities as appropriate.

§ 96.84 Reinstatement of accreditation or approval after suspension or cancellation by the Secretary.

(a) An agency or person who has been the subject of a suspension or cancellation by the Secretary may, within 30 days after receipt of the notice of suspension or cancellation, submit a written statement including any reasons why it believes the adverse action is unwarranted. Such statement must include any supporting materials that the agency or person wishes to be considered in support of its submission. If the agency or person does not submit such a statement within 30 days, the Department's decision will become final.

(b) Upon review and consideration of the agency or person's submission and

the evidence relied on by the Department, the Secretary shall determine whether to withdraw the cancellation or suspension. The Secretary shall withdraw the suspension or cancellation if he or she finds that the determination that the agency or person is substantially out of compliance with applicable requirements is not supported by substantial evidence. The agency or person will be notified of this decision within 30 days of the Department's receipt of the written statement described in paragraph (a) of this section. If the Secretary withdraws a suspension or cancellation under this paragraph, the Secretary will also take appropriate steps to notify the entities referenced in § 96.83(c).

(c) An agency or person may petition the Secretary for relief from the Secretary's suspension or cancellation of its accreditation or approval on the grounds that the deficiencies necessitating the suspension or cancellation have been corrected. If the Secretary is satisfied that the deficiencies that led to the suspension or cancellation have been corrected, the Secretary shall, in the case of a suspension, terminate the suspension or, in the case of a cancellation, notify the agency or person that it may reapply for accreditation or approval to the same accrediting entity that handled its prior application for accreditation or approval. If that accrediting entity is no longer providing accreditation or approval services, the agency or person may reapply to any accrediting entity with jurisdiction over its application. If the Secretary terminates a suspension or permits an agency or person to reapply for accreditation or approval, the Secretary will so notify the appropriate accrediting entity. If the Secretary terminates a suspension, the Secretary will also take appropriate steps to notify the entities referenced in § 96.83(c).

(d) Nothing in this section shall be construed to prevent the Secretary from withdrawing a cancellation or suspension if the Secretary concludes that the action was based on a mistake of fact or was otherwise in error. Upon taking such action, the Secretary will take appropriate steps to notify the accrediting entity(ies) and the entities referenced in § 96.83(c).

§ 96.85 Temporary and permanent debarment by the Secretary.

(a) The Secretary may temporarily or permanently debar an agency from accreditation or a person from approval on the Secretary's own initiative, at the request of DHS, or at the request of an accrediting entity. An agency or person that is debarred pursuant to this section ceases to be accredited or approved.

(b) The Secretary may issue a debarment order only if the Secretary, in the Secretary's discretion, determines that:

(1) There is substantial evidence that the agency or person is out of compliance with the standards in subpart F of this part; and

(2) There has been a pattern of serious, willful, or grossly negligent failures to comply with the standards in subpart F of this part, or there are other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned. For purposes of this paragraph:

(i) ''The children and families concerned'' include any children and any families whose interests have been or may be affected by the agency's or person's actions.

(ii) In determining whether the agency's or person's continued accreditation or approval would not be in the best interests of the children and families concerned, the Secretary may consider whether the agency's or person's continued accreditation would be detrimental to the ability of U.S. citizens to adopt children through intercountry adoption in the future.

(3) A failure to comply with § 96.47 (home study requirements) shall constitute a ''serious failure to comply'' unless it is shown by clear and convincing evidence that such noncompliance had neither the purpose nor the effect of determining the outcome of a decision or proceeding by a court or other competent authority in the United States or the child's country of origin; and

(i) Repeated serious, willful, or grossly negligent failures to comply with § 96.47 (home study requirements) by an agency or person after consultation between the Secretary and the accrediting entity with respect to previous noncompliance by such agency or person shall constitute a pattern of serious, willful, or grossly negligent failures to comply.

(ii) [Reserved].

(c) The Secretary shall initiate a debarment proceeding by notice of proposed debarment, in accordance with the procedures in § 96.88, unless the Secretary finds that it is necessary that debarment be effective immediately because the agency's or person's continued accreditation would pose a substantial risk of significant harm to children or families. If the Secretary finds that it is necessary that debarment be effective immediately, the procedures in § 96.89 shall govern such debarment.

§ 96.86 Length of debarment period and reapplication after temporary debarment.

(a) In the case of a temporary debarment order, the order will take effect on the date specified in the order and will specify a date, not earlier than three years later, on or after which the agency or person may petition the Secretary for withdrawal of the temporary debarment. If the Secretary withdraws the temporary debarment, the agency or person may then reapply for accreditation or approval to the same accrediting entity that handled its prior application for accreditation or approval. If that accrediting entity is no longer providing accreditation or approval services, the agency or person may apply to any accrediting entity with jurisdiction over its application.

(b) In the case of a permanent debarment order, the order will take effect on the date specified in the order. The agency or person will not be permitted to apply again to an accrediting entity for accreditation or approval, or to the Secretary for termination of the debarment.

(c) Nothing in this section shall be construed to prevent the Secretary from withdrawing a debarment if the Secretary concludes that the action was based on a mistake of fact or was otherwise in error. Upon taking such action, the Secretary will take appropriate steps to notify the accrediting entity(ies) and the entities referenced in § 96.83(c).

§ 96.87 Responsibilities of the accredited agency, approved person, and accrediting entity following suspension, cancellation, or debarment by the Secretary.

If the Secretary suspends or cancels the accreditation or approval of an agency or person, or debars an agency or person, the agency or person must cease to provide adoption services in all intercountry adoption cases. In the case of suspension, the agency or person must consult with the accrediting entity about whether to transfer its intercountry adoption cases and adoption records. In the case of cancellation or debarment, the agency or person must execute the plans required by §§ 96.33(f) and 96.42(d) under the oversight of the accrediting entity, and transfer its intercountry adoption cases and adoption records to other accredited agencies or approved persons or, where required by State law, to the State repository for such records.

(a) When the agency or person does not transfer such intercountry adoption cases or adoption records in accordance with the plans or as otherwise agreed by the accrediting entity, the accrediting entity will so advise the Secretary who,

with the assistance of the accrediting entity, will coordinate efforts to identify other accredited agencies or approved persons to assume responsibility for the cases, and to transfer the records to other accredited agencies or approved persons, or to public domestic authorities, as appropriate.

(b) If the Secretary cancels the accreditation or approval of an agency or person, or debars an agency or person, the accrediting entity shall refuse to renew any pending applications for renewal of accreditation or approval.

§ 96.88 Procedures for debarment with prior notice.

Unless the Secretary finds that it is necessary that debarment be effective immediately because the agency's or person's continued accreditation would risk significant harm to children or families, an agency or person shall be provided with notice of the proposed debarment and an opportunity to contest the proposed debarment, in accordance with the provisions of this section:

(a) A debarment proceeding shall be initiated by notice from the Department to the agency or person that includes:

(1) A statement that debarment is being considered under § 96.85;

(2) The reasons for the proposed debarment in terms sufficient to put the agency or person on notice of the conduct or transaction(s) upon which it is based;

(3) The standards in subpart F of this part with which the Secretary believes the agency or person is out of compliance;

(4) The provisions of this section and any other procedures, if applicable, governing the debarment proceedings, including specifically the right to request a hearing, when applicable; and

(5) The potential effect of a debarment, including the agency's or person's responsibilities with respect to ceasing to provide adoption services, transferring cases, and returning fees.

(b) If the agency or person elects to contest the proposed debarment, it may do so in accordance with the following procedures:

(1) Within 45 days after receipt of the notice of proposed debarment, the agency or person may submit a written statement in opposition to the proposed debarment. Such statement may include any evidence on which the agency or person intends to rely in opposition to the proposed debarment. Such statement may also include a request for a hearing. If a request for a hearing is not included with agency or person's statement, no hearing will be held, and the Secretary's debarment decision will be based upon his or her review of the written record only.

(2) Within 45 days after its receipt of the agency's or person's written statement, the Department will give the agency or person copies of the evidence relied on in support of the debarment action. In addition, the Department may choose to provide a written statement in response to the agency's or person's submission.

(3) If a hearing was not timely requested in accordance with paragraph (b)(1) of this section, then the agency or person may, within 45 days of its receipt of the Department's response described in paragraph (b)(2) of this section, submit a further statement in reply, which may, if appropriate, include additional evidence.

(4) If a hearing was requested in accordance with paragraph (b)(1) of this section, then the agency or person will, within 30 days of its receipt of the Department's response described in paragraph (b)(2) of this section, produce to the Department all physical or documentary evidence on which it will rely at the hearing.

(5) The statements described in this paragraph, and any evidence submitted therewith, will be made part of the record of the proceeding, and if no hearing was timely requested, will constitute the entire record of the proceeding.

(c) If a hearing was timely requested in accordance with paragraph (b)(1) of this section, the Department will, within 60 days of its receipt of the written statement described in paragraph (b)(1) of this section, give the agency or person written notice of the date, time, and place of the hearing. The proposed date of the hearing must be at least 30 days after the agency or person has received the evidence described in paragraph (b)(2) of this section, and at least 30 days after the agency or person has received the written notice described in this paragraph. The Department will make reasonable efforts to hold the hearing within 120 days of the date the Department receives the agency's or person's written request.

(1) The Department will name a hearing officer, who will generally be a Department employee. The hearing officer will make only preliminary findings of fact and submit recommendations based on the record of the proceeding to the Secretary.

(2) The hearing shall take place in Washington, DC. The agency or person may appear in person (if an individual), or be represented by an organizational representative (if an agency), or with or through an attorney admitted to practice in any State of the United States, the District of Columbia, or any territory or possession of the United States. The agency or person is responsible for all costs associated with attending the hearing.

(3) There is no right to subpoena witnesses or to conduct discovery in connection with the hearing. However, the agency or person may testify in person, offer evidence on its own behalf, present witnesses, and make arguments at the hearing. The agency or person is responsible for all costs associated with the presentation of its case. The Department may present witnesses, offer evidence, and make arguments on its behalf. The Department is responsible for all costs associated with the presentation of its case.

(4) Any evidence not produced in accordance with paragraph (b) of this section will not be considered by the hearing officer or be made part of the record of the proceeding, unless the hearing officer, in his or her discretion, elects to accept it. The hearing officer shall state his or her reasons for accepting evidence under this subparagraph. The hearing officer shall not accept under this subparagraph any evidence offered by a party that could have been produced by that party in accordance with paragraph (b) of this section.

(5) The hearing is informal and permissive. As such, the provisions of 5 U.S.C. 554 *et seq.* do not apply to the hearing. Formal rules of evidence also do not apply; however, the hearing officer may impose reasonable restrictions on relevancy, materiality, and competency of evidence presented. Testimony will be under oath or by affirmation under penalty of perjury. The hearing officer may not consider any information that is not also made available to the agency or person and made a part of the record of the proceeding.

(6) If any witness is unable to appear, the hearing officer may, in his or her discretion, permit the witness to testify via teleconference or accept an affidavit or sworn deposition testimony of the witness, the cost for which will be the responsibility of the requesting party, subject to such limits as the hearing officer deems appropriate.

(7) A qualified reporter will make a complete verbatim transcript of the hearing. The agency or person may review and purchase a copy of the transcript directly from the reporter. The hearing transcript and all the information and documents received by the hearing officer, whether or not deemed relevant, will be made part of the record of the proceeding. The

hearing officer's preliminary findings and recommendations are deliberative and shall not be considered part of the record unless adopted by the Secretary.

(d) Upon review and consideration of the complete record of the proceeding and the preliminary findings of fact and recommendations of the hearing officer, if applicable, the Secretary shall determine whether or not to impose the debarment. The Secretary shall render his or her decision within a reasonable period of time after the date for submission of the agency's or person's reply statement described in paragraph (b)(3) of this section, if no hearing was requested; or after the close of the hearing described in paragraph (c) of this section, if a hearing was held.

(1) The standard of proof applicable to a debarment proceeding under this subpart is substantial evidence. The Department bears the burden to establish that substantial evidence exists:

(i) That the agency or person is out of compliance with some or all of the standards identified in the notice of proposed debarment; and

(ii) That there is either a pattern of serious, willful, or grossly negligent failures to comply, or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.

(2) The Secretary is not limited to the specific conduct or transactions identified in the notice of proposed debarment, but may consider any evidence in the record of the proceeding that supplies substantial evidence of a violation of the standards identified in the notice of proposed debarment.

(e) If the Secretary decides to impose debarment, the agency or person shall be given prompt notice:

(1) Referring to the notice of proposed debarment;

(2) Specifying the reasons for debarment;

(3) Stating the effect of debarment, including the debarred agency's or person's responsibilities with respect to ceasing to provide adoption services, transferring cases, and returning fees; and

(4) Stating the period of debarment, including effective dates.

(f) The decision of the Secretary is final and is not subject to further administrative review.

(g) If the Secretary decides not to impose debarment, the agency or person shall be given prompt notice of that decision. A decision not to impose debarment shall be without prejudice to any adverse action imposed, or that may be imposed, on the agency or person by an accrediting entity.

§ 96.89 Procedures for debarment effective immediately.

If the Secretary finds that the agency's or person's continued accreditation or approval would risk significant harm to children or families, and that debarment should be effective immediately, the Secretary shall debar the agency or person from accreditation or approval by providing written notice of debarment to the agency or person.

(a) The notice of debarment shall include:

(1) A statement that the agency or person is debarred in accordance with § 96.85;

(2) The reasons for the debarment in terms sufficient to put the agency or person on notice of the conduct or transaction(s) upon which it is based;

(3) The standards in subpart F of this part with which the Secretary believes the agency or person is out of compliance;

(4) The period of the debarment, including effective dates;

(5) The effect of the debarment, including the debarred agency's or person's obligations; and

(6) The provisions of this section and any other procedures, if applicable, governing proceedings to contest the debarment action, including specifically the right to request a hearing, when applicable.

(b) If the agency or person elects to contest the Department's debarment action, it may do so in accordance with the following procedures:

(1) Within 30 days after receipt of the notice of debarment, the debarred agency or person may submit a written statement in opposition to the debarment. Such statement may include any evidence on which the debarred agency or person intends to rely in opposition to the debarment. Such statement may also include a request for a hearing. If a request for hearing is not included with the agency or person's statement, no hearing will be held, and the Secretary's debarment decision will be based upon his or her review of the written record only.

(2) Within 30 days after its receipt of the agency's or person's written statement, the Department will give the debarred agency or person copies of the evidence relied on in support of the debarment action. In addition, the Department may choose to provide a written statement in response to the debarred agency's or person's submission.

(3) The debarred agency or person may, within 30 days of its receipt of the Department's response described in paragraph (b)(2) of this section, submit a further statement in reply. The debarred agency or person will include with its reply, or will produce to the Department if it elects not to submit a reply, any additional physical or documentary evidence on which it will rely at the hearing.

(4) The statements described in this paragraph, and any evidence submitted therewith, will be made part of the record of the proceeding, and if no hearing was timely requested, will constitute the entire record of the proceeding.

(c) If a hearing was timely requested in accordance with paragraph (b)(1) of this section, the provisions of § 96.88(c) shall apply, except that the Department will give notice of the date, time, and place of the hearing within 30 days of its receipt of the debarred agency's or person's written statement described in paragraph (b)(1) of this section, and will make reasonable efforts to hold the hearing within 90 days of such receipt.

(d) Upon review and consideration of the complete record of the proceeding and the preliminary findings of fact and recommendations of the hearing officer, the Secretary shall confirm the debarment, if he or she determines that it is supported by substantial evidence, or shall withdraw the debarment, if he or she determines that it is not supported by substantial evidence. The Secretary shall render his or her decision within 30 days of the date for submission of the debarred agency's or person's reply statement described in paragraph (b)(3) of this section, if no hearing was requested; or within 45 days of the close of the hearing, if a hearing was held.

(1) The Department bears the burden to establish that substantial evidence exists:

(i) That the debarred agency or person is out of compliance with some, or all of the standards identified in the notice of debarment; and

(ii) That there is either a pattern of serious, willful, or grossly negligent failures to comply, or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.

(2) The Secretary is not limited to the specific conduct or transactions identified in the notice of debarment, but may consider any evidence in the record of the proceeding that supplies substantial evidence of a violation of the standards identified in the notice of debarment.

(3) If the Secretary decides to confirm the debarment, the agency or person shall be given prompt notice:

(i) Referring to the notice of debarment;

(ii) Stating that the debarment is confirmed;

(iii) Specifying the reasons for the decision to confirm the debarment; and

(iv) Stating the period, including effective dates, of the debarment, if different from those set forth in the notice of debarment.

(e) The decision of the Secretary is final and is not subject to further administrative review.

(f) If the Secretary decides to withdraw the debarment, the agency or person shall be given prompt notice of that decision. A decision not to confirm the debarment shall be without prejudice to any adverse action imposed, or that may be imposed, on the agency or person by an accrediting entity.

§ 96.90 Review of suspension, cancellation, or debarment by the Secretary.

(a) Except to the extent provided by the procedures in §§ 96.84, 96.88, and 96.89, an adverse action by the Secretary shall not be subject to administrative review.

(b) Section 204(d) of the IAA (42 U.S.C. 14924(d)) provides for judicial review of final actions by the Secretary. When any petition brought under section 204(d) raises as an issue whether the deficiencies necessitating a suspension or cancellation of accreditation or approval have been corrected, procedures maintained by the Secretary pursuant to § 96.84(c) must first be exhausted. A suspension or cancellation of accreditation or approval and a debarment (whether temporary or permanent) by the Secretary are final actions subject to judicial review. Other actions by the Secretary are not final actions and are not subject to judicial review.

(c) In accordance with section 204(d) of the IAA (42 U.S.C. 14924(d)), an agency or person that has been suspended, cancelled, or temporarily or permanently debarred by the Secretary may petition the United States District Court for the District of Columbia, or the United States district court in the judicial district in which the person resides or the agency is located, pursuant to 5 U.S.C. 706, to set aside the action.

■ 8. Revise subpart M to read as follows:

Subpart M—Dissemination and Reporting of Information by Accrediting Entities

Sec.

Subpart M—Dissemination and Reporting of Information by Accrediting Entities

§ 96.91 Scope.

The provisions in this subpart govern the dissemination and reporting of information on accredited agencies and approved persons by accrediting entities.

§ 96.92 Dissemination of information to the public about accreditation and approval status.

(a) Each accrediting entity must maintain and make available to the public at least monthly the following information:

(1) The name, address, and contact information for each agency and person that has been accredited or approved;

(2) The names of agencies and persons that have been denied accreditation or approval that have not subsequently been accredited or approved;

(3) The names of agencies and persons that have been subject to suspension, cancellation, refusal to renew accreditation or approval, or debarment by an accrediting entity or the Secretary; and

(4) Other information specifically authorized in writing by the accredited agency or approved person to be disclosed to the public.

(b) Each accrediting entity must make the following information available to individual members of the public upon specific request:

(1) Confirmation of whether or not a specific agency or person has a pending application for accreditation or approval, and, if so, the date of the application and whether it is under active consideration or whether a decision on the application has been deferred; and

(2) If an agency or person has been subject to suspension, cancellation, refusal to renew accreditation or approval, or debarment, a brief statement of the reasons for the action, including, where relevant, the identity and conduct of any foreign supervised providers.

§ 96.93 Dissemination of information to the public about complaints against accredited agencies and approved persons.

Each accrediting entity must maintain a written record documenting each complaint received and the steps taken in response to it. This information may be disclosed to the public as follows:

(a) Each accrediting entity must confirm, upon inquiry from a member of the public, whether there have been any substantiated complaints against an accredited agency or approved person, and if so, provide information about the status and nature of any such complaints.

(b) Each accrediting entity must have procedures for disclosing information about complaints that are substantiated.

§ 96.94 Reports to the Secretary about accredited agencies and approved persons and their activities.

(a) Each accrediting entity must make annual reports to the Secretary on the information it collects from accredited agencies and approved persons pursuant to § 96.43. Each accrediting entity must make semi-annual reports to the Secretary that summarize for the preceding six-month period the following information:

(1) The accreditation and approval status of its applicants, accredited agencies, and approved persons;

(2) Any instances where it has denied accreditation or approval;

(3) Any adverse actions it has taken against an accredited agency or approved person;

(4) All substantiated complaints against its accredited agencies and approved persons and the impact of such complaints on their accreditation or approval status;

(5) The number, nature, and outcome of complaint reviews carried out by the accrediting entity as well as the shortest, longest, average, and median length of time expended to complete complaint reviews;

(6) Any discernible patterns in complaints it has received about specific agencies or persons, as well as any discernible patterns of complaints in the aggregate;

(7) A list of cases involving disruption, dissolution, unregulated custody transfer, and serious harm to the child, by agency or person and by country or origin, and any discernible patterns in these cases; and

(8) A summary of unsubstantiated complaints, and those which the accrediting entity declined to review.

(b) In addition to the reporting requirements contained in § 96.72, an

accrediting entity must immediately notify the Secretary in writing:

(1) When it learns an accredited agency or approved person has:

(i) Ceased to provide adoption services;

(ii) Transferred its intercountry adoption cases and adoption records; or

(iii) Withdrawn a pending application for renewal of accreditation or approval;

(2) When it accredits an agency or approves a person;

(3) When it renews the accreditation or approval of an agency or person; or

(4) When it takes an adverse action against an accredited agency or approved person that impacts its accreditation or approval status.

§§ 96.95–96.99 [Reserved]

■ 9. Add reserved subparts N, O, P, and Q.

Subparts N, O, P, and Q [Reserved]

■ 10. Add subpart R to read as follows:

Subpart R—Alternative Procedures for Primary Providers in Intercountry Adoption by Relatives

Sec.

Subpart R—Alternative Procedures for Primary Providers in Intercountry Adoption by Relatives

§ 96.100 Alternative procedures for primary providers in intercountry adoption by relatives.

In a case where the child is being adopted by a relative as defined in § 96.2:

(a) The primary provider, in accordance with § 96.44, develops and implements a service plan for providing adoption service 3 (performing and reporting on the home study and child background study, according to the provisions in §§ 96.47 and 96.53), adoption service 5 (monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption), and adoption service 6 (when necessary because of a disruption before final adoption, assuming custody and providing child care or any other social service pending an alternative placement, according to the provisions in §§ 96.50 and 96.51), and provides all such services in accordance with § 96.44.

(b) The primary provider includes in the service plan any additional adoption services found in the definition of adoption services in § 96.2 only if they will be provided by the primary provider or one of its supervised providers.

(c) The primary provider verifies that the prospective adoptive parents have met the training requirements outlined in § 96.48 in incoming cases before the finalization of the adoption or the granting of legal custody for purposes of emigration and adoption in the United States. In cases where the adoption or legal custody grant occurred prior to the primary provider's involvement in the case, the primary provider must verify such training requirements have been met as soon as practicable.

(d) All services provided pursuant to this section must be performed in accordance with the Convention, the IAA, the UAA, and the regulations implementing the IAA and the UAA.

§ 96.101 Effective date for alternative procedures for primary providers in intercountry adoption by relatives.

The provisions of this subpart become effective January 8, 2025.

NOTE: The following appendix will not appear in the Code of Federal Regulations:

APPENDIX A—RELATIVE RELATIONSHIPS AS DEFINED IN 8 CFR AND 22 CFR—OVERLAPPING FAMILIAL RELATIONSHIPS IN TWO DEFINITIONS OF RELATIVE

Column A	Column B	Column C
Prospective adoptive parent familial relationships with the *parent* of the child to be adopted as defined in 8 CFR 204.309(b)(2)(iii)	Converted familial relationships in Column A for comparison with relationships in Column C	Prospective adoptive parent familial relationships with the *child* to be adopted as defined in 22 CFR 96.2
	To compare the relationships in column A with those in column C, the terms need to be equivalent. This column shows the conversion of prospective adoptive parent relationships to the PARENT of the child in column A to prospective adoptive parent relationships to the CHILD her/himself as in column C	(Overlapping equivalent familial relationships are in **bold**.)
former parent/mother or father-in-law/step-parent/parent.	**grandparent**	**grandparent**.
former wife or husband/husband or wife	**parent/stepparent**	**parent/stepparent**.
daughter-in-law/stepdaughter/daughter	**sister/stepsister/half-sister**	**sister/stepsister/half-sister**.
son-in-law/stepson/son	**brother/stepbrother/half-brother**	**brother/stepbrother/half-brother**.
half-sister/sister-in-law/stepsister/sister	**aunt**	**aunt**.
half-brother/brother-in-law/stepbrother/brother	**uncle**	**uncle**.
aunt	great aunt	not included.*
uncle	great uncle	not included.*
niece	1st cousin	not included.*
nephew	1st cousin	not included.*
1st cousin	1st cousin once removed	not included.*
2nd cousin	2nd cousin once removed	not included.*

* The definition of relative in 22 CFR includes first- and second-degree family relationships. The definition in 8 CFR includes third and some fourth-degree relationships such as great aunts and uncles and first and second cousins. Prospective adoptive parents with relationships beyond the second-degree may adopt relatives but not under the alternative procedures for primary providers found in 22 CFR 96.100.

Rena Bitter,
Assistant Secretary, Bureau of Consular Affairs, Department of State.

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Part IV

Department of Commerce

International Trade Administration

19 CFR Part 351

Regulations Enhancing the Administration of the Antidumping and Countervailing Duty Trade Remedy Laws; Proposed Rule

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

[Docket No. 240703–0184]

RIN 0625–AB25

Regulations Enhancing the Administration of the Antidumping and Countervailing Duty Trade Remedy Laws

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: Pursuant to Title VII of the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) proposes to update its trade remedy regulations to enhance the administration of the antidumping duty (AD) and countervailing duty (CVD) laws. Specifically, Commerce proposes to codify existing procedures and methodologies and create or revise regulatory provisions relating to several matters including the collection of cash deposits, application of antidumping rates in nonmarket economy proceedings, calculation of an all-others' rate, selection of examined respondents, and attribution of subsidies received by cross-owned input producers and utility providers to producers of subject merchandise.

DATES: To be assured of consideration, written comments must be received no later than September 10, 2024.

ADDRESSES: Submit electronic comments only through the Federal eRulemaking Portal at *https://www.Regulations.gov,* Docket No. ITA–2023–0003. Comments may also be submitted by mail or hand delivery/courier, addressed to Ryan Majerus, Deputy Assistant Secretary for Policy & Negotiations, Performing the Non-Exclusive Functions and Duties of the Assistant Secretary for Enforcement and Compliance, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. An appointment must be made in advance with the Administrative Protective Order (APO)/Dockets Unit at (202) 482–4920 to submit comments in person by hand delivery or courier. All comments submitted during the comment period permitted by this document will be a matter of public record and will be available on the Federal eRulemaking Portal at *https://www.Regulations.gov*. Commerce will not accept comments accompanied by a request that part or all the material be treated as confidential because of its business proprietary nature or for any other reason. Therefore, do not submit confidential business information or otherwise sensitive or protected information.

Any questions concerning the process for submitting comments should be submitted to Enforcement & Compliance (E&C) Communications office at *ECCommunications@trade.gov* or to John Van Dyke, Import Policy Analyst, at *john.vandyke@trade.gov*. Inquiries may also be made of the E&C Communications office during business hours at (202) 482–0063.

FOR FURTHER INFORMATION CONTACT: Scott D. McBride, Associate Deputy Chief Counsel for Trade Enforcement and Compliance, at (202) 482–6292, or Jesus Saenz, Attorney, at (202) 482–1823.

SUPPLEMENTARY INFORMATION:

General Background

Title VII of the Act vests Commerce with authority to administer the AD/CVD trade remedy laws. Section 731 of the Act directs Commerce to impose an AD order on merchandise entering the United States when it determines that a producer or exporter is selling a class or kind of foreign merchandise into the United States at less than fair value (*i.e.,* dumping), and material injury or threat of material injury to that industry in the United States is found by the U.S. International Trade Commission (ITC).

In addition, section 701 of the Act directs Commerce to impose a CVD order when it determines that a government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise that is imported into the United States, and material injury or threat of material injury to that industry in the United States is found by the ITC.

Section 771(5)(B) of the Act defines a countervailable subsidy as existing when ''a government or any public entity within the territory of a country provides a financial contribution; provides any form of income or price support; or makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments; and a benefit is thereby conferred.'' To be countervailable, a subsidy must be ''specific'' within the meaning of section 771(5A) of the Act.

The Act provides numerous disciplines which Commerce must follow in conducting AD and CVD proceedings. For example, sections 703(d)(1)(B), 705(d), 733(d)(1)(B), 735(c), and 751 of the Act direct Commerce to order U.S. Customs and Border Protection (CBP) to collect cash deposits as security pursuant to multiple determinations in its proceedings, until Commerce orders the assessment of AD or CVD duties. Likewise, sections 705(c)(1)(B), 705(c)(5), 735(c)(1)(B)(i), and 735(c)(5) of the Act set forth the means by which Commerce determines the AD margin or countervailable subsidy rate to be applied to imported subject merchandise exported or produced by entities not selected in an investigation for individual examination. In addition, sections 777A(c)(2) and 777A(e)(2)(A) of the Act allow Commerce to limit the number of exporters or producers to be individually examined, while section 782(a) allows Commerce to select voluntary respondents.

In accordance with these and other statutory provisions, this proposed rule codifies and enhances the procedures and practices applied by Commerce in administering and enforcing the AD and CVD laws.

Explanation of the Proposed Rule

Commerce proposes several updates to the AD and CVD regulations found at part 351.[1] The proposed changes are summarized here and discussed in greater detail below. Commerce invites comments on all proposed regulatory changes and clarifications, including suggestions to improve them.

- Revise the Subpart A heading of part 351 to reflect the provisions to which it applies.
- Revise § 351.104(a)(7) to reflect that preliminary and final issues and decision memoranda issued in investigations and administrative

[1] Commerce's proposed rule seeks to codify several distinct procedures and practices under various sections of the Act. As such, Commerce generally intends the rule's provisions to be severable and to operate independently from each other. Commerce's intent that the rule's provisions be severable is demonstrated by the number of distinct regulatory provisions addressed in this rulemaking and the structure of the preamble in addressing them independently and supporting each, respectively, with Commerce's statutory interpretation, agency practice, and court precedent. Accordingly, Commerce intends each portion of this rule to be severable from each other but has included all of the proposed provisions in one rulemaking for purposes of enhancing Commerce's trade remedy regulations.

reviews before the implementation of Commerce's filing system, Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), may be cited in full in submissions before Commerce without placing the memoranda on the record.

- Revise § 351.107 to accurately and more holistically describe Commerce's establishment and application of cash deposit rates, including explaining that some cash deposit rates are calculated on an *ad valorem* basis at importation, while others are calculated on a per-unit basis. The proposed regulation would also describe situations in which Commerce applies cash deposit rates in a producer/exporter combination and the process by which a producer/exporter combination may be excluded from provisional measures and an AD or CVD order as a result of a calculated *de minimis* cash deposit rate following an investigation. Furthermore, the regulation would set forth an AD cash deposit hierarchy for imports from market economies, an AD cash deposit hierarchy for imports from nonmarket economies, and a CVD cash deposit hierarchy. Finally, revised § 351.107 would describe the effective date for cash deposit rates following the correction of ministerial errors in investigations and administrative reviews.
- Codify and update Commerce's methodology for determining if an entity exporting merchandise from a nonmarket economy should receive an antidumping duty rate separate from that of the nonmarket economy entity. New § 351.108 would provide that in a nonmarket economy, one dumping margin may apply to all exporting entities from that economy. It would explain that if an entity located in a nonmarket economy is majority-owned by the government, the government can control its production, management, sales and export activities and it will not receive a separate rate. It would also describe additional scenarios in which an entity in the nonmarket economy will not receive a separate rate if the government owns 50 percent or less of the entity's shares and (1) the government has a disproportionately larger degree of influence or control over the entity's production and commercial decisions than the ownership share would normally entail and the Secretary determines that the degree of influence or control is significant; (2) the government has the authority to veto or control the entity's production and commercial decisions; (3) government officials, employees or representatives have been appointed as officers and have the ability to make or influence production or commercial decisions; or (4) the entity is required by law to maintain or in fact maintains one or more government officials, employees, or representatives in positions of authority who have the ability to make or influence production or commercial decisions. Further, it would also codify Commerce's analysis for determining if an entity is *de jure* and *de facto* separate from the government for purposes of export determinations, including an additional consideration of whether the entity, regardless of government ownership, must maintain government officials, employees or representatives in positions of authority who have the ability to make or influence decisions on export activities. In addition, the proposed rule would allow for consideration of any other information on the record suggesting that the government has direct or indirect influence over the exporter's export activities. Finally, proposed § 351.108 would clarify the requirements for a separate rate application or certification and would suggest a revision to deadlines for separate rate applications of fourteen days following publication of the notice of initiation in the **Federal Register**.
- Add § 351.109 to address Commerce's methodologies for selecting respondents in investigations and administrative reviews, including the steps Commerce would take to determine the number of exporters or producers that is practicable to investigate or review for calculating the all-others rate in investigations and for calculating a rate for unexamined exporters and producers. This provision would allow for a single country-wide subsidy rate, provide a waiver from examination if both petitioners and the potential respondent agree to non-selection of that potential respondent, and clarify that a nonmarket economy entity rate is not the same thing as an all-others rate. In addition, § 351.109 would move the existing voluntary respondent provisions from § 351.204 to § 351.109 and update and revise the regulatory provisions applicable to the selection of voluntary respondents and deadlines for voluntary respondent submissions.
- Modify § 351.204 to move § 204(d)(1)–(3) to section 109 and move § 204(e)(1)–(3) to section 107. Further, update and simplify § 204(a) and (c), and move § 204(e)(4) to § 204(d), along with a new subheading for that paragraph and a new heading for section 204 itself.
- Modify § 351.212(b) to clarify that entries may be assessed either on an *ad valorem* value or per-unit basis.
- Modify § 351.213(f) to indicate that Commerce may select respondents, including voluntary respondents, in the context of an administrative review.
- Modify the header of § 351.214 to emphasize that the regulations cover both new shipper reviews and CVD expedited reviews, each derived from different statutory authorities.
- Modify § 351.301(b)(2) to require that interested parties submitting new information to rebut, clarify or correct factual information on the record must identify in writing the specific information being rebutted, clarified, or corrected and explain how the new factual information rebuts, clarifies or corrects that existing factual information.
- Modify § 351.301(c)(3) to revise the time in which surrogate value submissions in nonmarket economy country antidumping proceedings and benchmark information in countervailing duty proceedings may be submitted in investigations and administrative, new shipper, and changed circumstances reviews.
- Modify § 351.306(a)(3) to clarify that Commerce may share business proprietary information with CBP officials involved in negligence, gross negligence, or fraud investigations.
- Add paragraphs (g), (h), and (i) to § 351.308 to reflect that pursuant to section 776 of the Act, Commerce may apply partial or total facts available, may use previously calculated dumping margins and countervailable subsidy rates in separate segments of the same proceeding without the need to corroborate those margins or rates, may use the highest dumping margin available as adverse facts available, need not estimate what an antidumping or countervailing duty rate would have been if an entity had acted to the best of its ability, and need not consider the ''commercial reality'' of an interested party in applying adverse facts available.
- Revise § 351.309(c) and (d) to request that parties include a table of contents, sources such as tribunal decisions and administrative case determinations in the table of authorities, and a public executive summary of no more than 450 words for each discrete issue raised in case briefs and rebuttal briefs. This change would remove the encouraged inclusion of a five-page summary.
- Modify § 351.401(f) to reflect that Commerce may treat both producing and non-producing affiliated parties as a single collapsed entity.

• Add § 351.404(g) to address the filing requirements for those alleging the existence of a multinational corporation and to clarify that the multinational corporation provision will not be applied when the non-exporting country is located in a nonmarket economy.

• Add § 351.405(b)(3) to set forth the criteria Commerce would normally consider in selecting an amount of profit normally realized by exporters or producers in connection with the sale of same or similar merchandise in determining constructed value under the constructed value profit cap.

• Modify § 351.408(b) to update and enhance Commerce's selection of economically comparable countries as part of its nonmarket economy methodology in accordance with sections 773(c)(2)(B) and 773(c)(4)(A) of the Act. In addition to selecting a comparable economy based on *per capita* gross domestic product (GDP) or gross national income (GNI), Commerce could also consider factors including the size and composition of export activity in certain countries and the availability, accessibility, and quality of data from those countries as part of its analysis.

• Remove current § 351.502(d), (e), and (f) which state that integrally linked subsidies, agricultural subsidies and subsidies to small- and medium-sized businesses are not ''specific'' for purposes of determining the countervailability of a subsidy under the CVD law.

• Move § 351.502(g) covering disaster relief to § 351.502(d) and add that such relief includes pandemic relief.

• Amend § 351.502(e) to explain that subsidies that provide employment assistance to workers grouped in general categories (such as age, gender, and/or the existence of a disability, veterans, or unemployment status) will not be considered specific if those assistance programs are generally available to everyone hired within those categories without restrictions specific to individual industries.

• Remove § 351.502(f) and (g) entirely, as those provisions are no longer required with the other above-listed edits incorporated.

• Add § 351.503(b)(3) to address the general treatment of the balance or value of contingent liabilities/assets not otherwise covered in paragraph 503(a) as an interest-free provision of funds and calculate the benefit using a short-term commercial interest rate.

• Add § 351.505(a)(6)(iii) to provide an initiation standard for government-owned policy banks that would find the threshold for specificity met if a party can sufficiently allege that a policy bank provides loans pursuant to government policies or directives.

• Modify§ 351.505(b) to remove the term ''otherwise'' from the regulation to bring the language into conformity with other regulations addressing the treatment of long-term loans.

• Modify § 351.505(c) to remove paragraphs (c)(3) and (c)(4) and update paragraph (c)(2) to be the only provision addressing long-term loans. The benefit for long-term loans would be calculated by determining the difference between what a party would have paid on a comparable commercial loan and the actual amount the party paid on a government loan during a period of investigation (POI) or review (POR), and then allocating the benefit amount to the relevant sales during the POI or POR. Consistent with the language of section 771(5)(E) of the Act, remove sentences in current § 351.505(c)(1) and (c)(2) that state that the present value in the year of receipt of the loan should never be permitted to exceed the principal of the loan in our calculations.

• Consistent with section 771(5)(E) of the Act, modify § 351.505(e) to remove the sentence ''[i]n no event may the present value (in the year of receipt of the contingent liability loan) of the amounts calculated under this paragraph exceed the principal of the loan.''

• Modify § 351.509, the regulation addressing direct taxes, to add a clause stating that the calculation of a benefit under § 351.509(a)(1) applies to firms located in an area designated by the government as being outside the customs territory of the government.

• Modify § 351.511(a)(2)(i) to provide for the comparison of a government price to either an actual transaction in the country in question or to ''actual sales from competitively run government auctions'' in determining a benchmark price under the definition of ''adequate remuneration.'' In addition to defining actual transaction prices, modified § 351.511(a)(2)(i) would also define ''competitively run government auctions.''

• Complete § 351.512, applicable to the purchase of goods, which is currently reserved. New § 351.512(a)(1) would provide that in general, where goods are purchased by the government from a firm, a benefit will exist if the goods are purchased for more than adequate remuneration. Proposed § 512(a)(2) would define adequate remuneration for this provision, including an explanation that Commerce will use ex-factory or ex-works comparison prices and the price paid to the firm for the good by the government in order to measure the benefit conferred to the recipient. Proposed § 512(a)(3) would explain that when the government is both a provider and purchaser of a good, Commerce will normally measure the benefit by comparing the price the government sold the good to a firm with the price the government paid when purchasing the good from the same firm. Proposed § 512(b) would state that date of receipt of the benefit will be at the time of receipt of payment for the purchased good, and § 351.512(c) would address the time period in which Commerce would allocate the benefit for the purchase of a good.

• Remove reserved § 351.521 titled ''Import substitution subsidy,'' because no such regulation is necessary in light of the definition of an import substitution subsidy found in section 771(5A)(C) of the Act.

• Replace § 351.521 with a new regulation addressing export subsidies which exempt, remit, or defer indirect taxes and import charges on capital goods and equipment. Proposed § 521(a)(1) would address the benefits received through an export subsidy that provides for the full or partial exemption or remission of an indirect tax or an import charge on the purchase or import of capital goods and equipment. Proposed § 521(a)(2) would address the benefits received through a deferral of indirect taxes or import charges. Proposed § 521(b) would explain the time of receipt of the benefit in the case of full or partial exemptions or remissions of indirect taxes or import charges, as well as the time of receipt of deferral of indirect taxes or import charges. Finally, proposed § 351.521(c) would explain that Commerce will allocate the benefit of a full or partial exemption, remission, or deferral to the year in which the benefit is considered to have been received.

• Delete and reserve § 351.522, as it addresses green light and green box subsidies that lapsed pursuant to section 771(5B)(G) of the Act.

• Revise § 351.525(b)(6)(iii), which addresses the attribution of subsidies to holding companies and their subsidiaries. Specifically, this proposed rule would remove the second sentence of the provision in § 351.525(b)(6)(iii), which states that if a holding company merely served as a conduit for the transfer of the subsidy from the government to a subsidiary of the holding company, Commerce will attribute the subsidy to products sold by the subsidiary. The agency would remove this language because it is proposing to modify the language in the regulation addressing the transfer of subsidies from cross-owned companies

in new proposed § 351.525(b)(6)(vi) to state that a transferred subsidy will be solely attributed to the products produced by the recipient of the transferred subsidy. This modification would apply to all cross-owned companies, including holding or parent companies.

- Revise § 351.525(b)(6)(iv), which currently addresses the attribution of subsidies to input suppliers. The proposed rule would revise the subheading to apply to input producers and divide the paragraph into § 351.525(b)(6)(iv)(A) and § 351.525(b)(6)(iv)(B). Proposed § 525(b)(6)(iv)(A) would use language similar to the current provision, addressing input producers that supply a downstream producer. Proposed § 525(b)(6)(iv)(B) would list several factors that Commerce may consider in determining if an input product is primarily dedicated to the production of the downstream product.
- Move current § 351.525(b)(6)(vi), the definition of cross-ownership, to a new § 351.525(b)(6)(vii).
- Move current § 351.525(b)(6)(v), covering the transfer of subsidies between corporations with cross-ownership producing different products, to § 351.525(b)(6)(vi) and modify it to address the transfer of subsidies from any cross-owned corporation. Under this modification, a transferred subsidy from a cross-owned corporation would be attributed solely to products produced by the recipient of the transferred subsidy.
- Modify § 351.525(b)(6)(v) to cover the attribution of subsidies to cross-owned corporations providing electricity, natural gas or other similar utility products. The regulation would provide that Commerce will attribute subsidies received by a provider of utility products to the combined sales of the cross-owned producer and the sales of products sold by the producer of subject merchandise if at least one of two identified conditions are met.
- Add a new § 351.525(b)(8) to propose that Commerce would not tie or attribute subsidies on a plant- or factory-specific basis.
- Add a new § 351.525(b)(9) to propose that a subsidy normally would be determined to be ''tied'' to a product or market when the authority providing the subsidy was made aware of, or had knowledge of, the intended use of the subsidy and so acknowledged the intended use of the subsidy prior to, or concurrent with, the approval or bestowal of the subsidy.
- Revise language in § 351.525(b)(1) to reflect that the attribution regulations now extend to § 351.525(b)(9) and add a sentence that states that Commerce may limit the number of cross-owned companies examined under this provision if the facts on the record and available resources warrant such a limitation.
- Revise § 351.525(c), which addresses the attribution of subsidies to trading companies, to address the formula for cumulating subsidies, both when the trading company exports the individually examined respondent's merchandise and when the trading company is the individually examined respondent itself.
- Add § 351.525(d) to explain Commerce's adjustment of the *ad valorem* subsidy rate when a country is experiencing high inflation, which is defined for this provision as an inflation rate greater than 25 percent per annum during the relevant period.
- Replace current § 351.526, which is no longer relevant, with language codifying Commerce's practice with respect to subsidy extinguishment from changes in ownership. Proposed § 526(a) would explain that, in general, Commerce will presume that non-recurring subsidies continue to benefit a recipient in full over a particular allocation period notwithstanding an intervening change in ownership. Proposed § 526(b) would set forth the criteria by which an interested party may rebut the presumption of the continuation of a benefit in full over the relevant allocation period. Furthermore, proposed § 526(c) would explain that if the presumption is rebutted, the full amount of the benefits from subsidies preceding the change in ownership would be found to be extinguished, including the benefits of concurrent subsidies meeting the criteria set forth in § 351.526(c)(2).
- Update § 351.104(a)(2)(iii), § 351.214(1)(1), § 351.214(l)(3)(iii), § 351.301(c)(1), and § 351.302(d)(1)(ii) to correct for cross-citations modified as a result of this Proposed Rule.

1. Revising Subpart A Heading to Part 351 To Include the Record of Proceedings, Cash Deposits, Nonmarket Economy Antidumping Rates, All-Others Rate, and Respondent Selection

Currently, Subpart A to part 351, which covers §§ 101–107, is titled ''Scope and Definitions,'' although it also covers administrative record requirements and proceedings, as well as cash deposits. In this Proposed Rule, Commerce proposes the revision of the cash deposit regulation, as well as the creation of two new regulations which codify the agency's separate rates and respondent selection practice and procedures. Accordingly, Commerce proposes changing the name of Subheading A to ''Scope, Definitions, the Record of Proceedings, Cash Deposits, Nonmarket Economy Antidumping Rates, All-Others Rate, and Respondent Selection.''

2. Revising Commerce's Filing Requirements To Allow Citation of Preliminary and Final Issues and Decision Memoranda Issued Before the Implementation of Commerce's ACCESS Filing System Without Placing Them on the Record—§ 351.104(a)(7)

On March 25, 2024, Commerce issued a final rule which provided clarity and procedures for interested parties submitting documentation to the agency, explaining which documents may be cited without placing documents from other segments and proceedings on the record and which documents must be placed on the record to be considered by Commerce in its analysis and determinations.[2] Those modifications added § 351.104(a)(7), which currently states that interested parties citing to public versions of documents which were issued by Commerce in other segments or proceedings before the implementation of ACCESS must place copies of those documents on the record because such documents have no assigned ACCESS barcode number.

Commerce has reconsidered the scope of public documents to which § 351.104(a)(7) applies and has determined that public preliminary and final issues and decision memoranda issued in investigations and administrative reviews pursuant to §§ 351.205, 210 and 213 before ACCESS was implemented need not be subject the requirements of that provision. Accordingly, this proposed rule would remove the requirement that such memoranda be placed on the record to be considered. Citations to these memoranda, like all such citations relied upon by interested parties in submissions to Commerce, must be cited in full (albeit without an ACCESS barcode number) and, as set forth in § 351.104(a)(6), if Commerce determines that a citation is not cited in full, it may decline to consider and analyze the cited preliminary or final issues and decision memoranda in its preliminary and final determinations.

[2] *See Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws, Final Rule,* 89 FR 20766, 20768–20773 (March 25, 2024).

3. Explaining Commerce's Cash Deposit Procedures and Calculations Including Producer/Exporter Combination Rates, AD/CVD Hierarchies, and Effective Dates for Ministerial Errors—§ 351.107

Sections 703(d)(1)(B), 705(d), 733(d)(1)(B), 735(c), and 751 of the Act provide Commerce with the statutory authority to determine cash deposit rates and order the suspension of liquidation and collection of cash deposits in antidumping and countervailing duty investigations and reviews. Specifically, sections 703(d)(1)(B) and 705(d) of the Act direct Commerce to determine cash deposit rates and issue instructions to CBP pursuant to preliminary and final determinations in CVD investigations, and sections 733(d)(1)(B) and 735(c) of the Act direct Commerce to determine cash deposit rates and issue instructions to CBP pursuant to preliminary and final determinations in AD investigations. With respect to section 751 of the Act, various provisions, such as sections 751(a)(1), 751(a)(2)(C), and 751(d), describe procedures by which Commerce instructs CBP to suspend liquidation of entries of merchandise, collect cash deposits, and revoke or terminate the collection of cash deposits pursuant to the results of different types of reviews. Commerce proposes a revision to § 351.107(a) that addresses Commerce's authority to take such actions under the Act.

Proposed § 351.107(b) would establish the general rule that Commerce will instruct CBP to suspend liquidation of merchandise subject to an AD or CVD proceeding and apply cash deposit rates determined in that proceeding to all applicable imported merchandise. Proposed § 351.107(b) would also establish that, in general, cash deposits should be calculated in proportion to the estimated value of the merchandise, as reported to CBP, on an *ad valorem* basis. This provision would be similar to the description of the final assessment of merchandise pursuant to AD and CVD proceedings on an *ad valorem* basis as already set forth in § 351.212(b).

In 1997, Commerce promulgated § 351.107 to provide guidance on the rules for calculating the cash deposit rate.[3] Since that rulemaking, Commerce has encountered several scenarios where the current § 351.107 did not provide guidance in applying a cash deposit rate or rates. For example, although the 1997 regulations provide for the assessment of entries on an *ad valorem* basis, the cash deposit regulations do not address the similar calculation of cash deposits. Over the years, relying on statutory and court guidance, Commerce developed various practices that are reflected in the proposed § 351.107 revision. Although Commerce normally instructs CBP to calculate cash deposits on an *ad valorem* basis, it has also at times instructed CBP to calculate cash deposit rates on a per-unit basis. Proposed § 351.107(c)(1) describes the exception to Commerce's normal *ad valorem* practice, stating that the calculation of cash deposits on a per-unit basis might be appropriate if the information normally used to calculate an *ad valorem* cash deposit rate is not available or the use of an *ad valorem* cash deposit rate is otherwise not appropriate. For example, it is Commerce's practice to calculate cash deposits on a per-unit basis when an *ad valorem* basis will result in an under-collection of duties.[4]

Accordingly, to ensure the proper calculation of the cash deposit rate, Commerce is codifying its practice of relying on reported unit measurements when relying on reported sales values would result in an inaccurate cash deposit rate because entered sales values are unknown, undervalued, or systematically understated.[5] The regulation explains that units to which a cash deposit rate may be applied include, but are not limited to, weight, length, volume, packaging (such as the type or size of packaging), and individual units of the product itself. Notably, the U.S. Court of International Trade (CIT) has affirmed Commerce's use of a per-unit methodology.[6]

Commerce normally calculates a cash deposit rate applicable to all imported subject merchandise exported by an examined exporter or produced by an examined producer. Proposed § 351.107(c)(2) would provide an exception whereby Commerce may apply a cash deposit rate determined in the current or a preceding examination only to imported merchandise both produced by an identified producer and exported by an identified exporter in a producer/exporter combination rather than all the subject merchandise exported by an examined exporter or produced by an examined producer. Commerce's regulations already provide for the application of cash deposit rates to certain producer/exporter combinations in current § 351.107(b); however, unlike the newly proposed paragraph, the current regulation addresses only merchandise where the producer and exporter are not the same entity. The CIT has held that Commerce has ''broad discretion to determine when and how to administer combination rates'' in order to prevent the evasion of the calculated cash deposit rates.[7] Accordingly, Commerce proposes to revise and clarify the producer/exporter combination provisions in the regulation, including the example set forth in proposed § 351.107(c)(2)(i).

To provide even greater clarity on the application of producer/exporter combinations, § 351.107(c)(2)(ii)(A) through (D) sets forth four examples in which Commerce would instruct CBP to apply a determined cash deposit rate to a producer/exporter combination. Specifically, Commerce would instruct CBP to collect cash deposits for producer/exporter combinations in (1) new shipper reviews; [8] (2) AD

[3] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27318–19 (May 19, 1997) (*1997 Final Rule*) (discussing the finalized cash deposits regulation).

[4] *See Certain Activated Carbon from the People's Republic of China Final Results of Antidumping Duty Administrative Review; 2010–2011,* 77 FR 67337, (November 9, 2012) and accompanying IDM (*Certain Activated Carbon from the People's Republic of China* IDM) at 34 (stating ''the regulation, however, does not proscribe {Commerce} from resorting to other methods of calculating and assigning assessment and cash deposit rates, and the agency does so in certain circumstances . . . {Commerce} changed the cash deposit and assessment methodology from an ad valorem to a per-unit basis because the application of an ad valorem rate based on net U.S. price would yield an under-collection of duties due to Jacobi's undervaluing of its United States sales.'').

[5] *See id.; see also 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016–2018,* 84 FR 67925, (December 12, 2019) and accompanying IDM (*1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China* IDM) at Comment 5; *Wooden Bedroom Furniture from the People's Republic of China: Final Results and Final Rescission in Part,* 75 FR 50992 (August 18, 2010), and accompanying IDM (*Wooden Bedroom Furniture from the People's Republic of China* IDM) at Comment 17; and *Honey from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review,* 70 FR 38872 (July 6, 2005) and accompanying IDM (*Honey from the People's Republic of China* IDM) at Comment 7.

[6] *See Wuhan Bee Healthy Co.* v. *United States,* Slip Op. 2008–61 at 12 (CIT May 8, 2008) (*Wuhan Bee*).

[7] *See Tianjin Magnesium Int'l Co.* v. *United States,* 772 F.Supp.2d 1322,1341 (CIT 2010) (stating, ''Commerce has broad discretion to determine when and how to administer combination rates.''); *Lifestyle Enter., Inc.* v. *United States,* 768 F. Supp.2d. 1314 (CIT 2011) (stating ''Commerce has a duty to prevent circumvention of AD law and may do so by imposing combination rates.'').

[8] *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014–2015,* 81 FR 62712 (September 12, 2016), (''With respect to Hyundai Steel Company, the respondent in the new shipper review, the Department established a combination cash deposit rate for this company consistent with its practice, as follows . . .'').

investigations of exporters or producers from a nonmarket economy; [9] (3) scope, circumvention, and covered merchandise inquiries when Commerce has made a determination on a producer/exporter combination basis; [10] and (4) any additional segments Commerce deems appropriate based on the facts of the record.[11]

In addition, under another exception to Commerce's normal application of cash deposit rates to all imported subject merchandise exported by an examined exporter or produced by an examined producer, when Commerce determines in an AD or CVD investigation that a respondent should be excluded from an AD or CVD order, it is Commerce's long-standing practice to instruct CBP to apply that exclusion on a producer/exporter combination basis. Sections 703(b)(4)(A) and 733(b)(3) of the Act provide that Commerce shall disregard any countervailable subsidy rate and any dumping margin, respectively, that is zero or *de minimis* in the preliminary determination. Moreover, sections 705(c)(2) and 735(c)(2) of the Act provide that Commerce shall ''terminate'' the investigation, suspension of liquidation, and collection of cash deposits for the investigated exporter or producer when Commerce makes a negative determination based on a zero or *de minimis* countervailable subsidy rate or dumping margin for that exporter or producer. In other words, when a zero or *de minimis* countervailable subsidy rate or dumping margin is calculated for an exporter or producer based on particular investigated producer/exporter transactions, Commerce's long-standing enforcement of the Act has been to exclude future imports of merchandise from the disciplines of the AD or CVD order using those same investigated producer/exporter combinations. Proposed § 351.107(c)(3) would codify Commerce's practice of excluding the producer/exporter combination or combinations examined in the investigation that satisfy those statutory requirements and identifying that combination or combinations publicly in the **Federal Register**.[12]

Commerce's current regulations address the exclusion of producers, exporters, and combinations of nonproducing exporters and producers in current § 351.204(e)(1)–(3). For purposes of clarity, Commerce proposes to move the paragraphs found in current § 351.204(e)(1) through (3) to proposed § 351.107(c)(3)(i) through (iii) and update the language and examples to better reflect Commerce's practices and procedures in applying a producer/exporter combination in exclusions from AD and CVD investigations and orders. Commerce proposes recognizing that in a preliminary determination, with respect to entries of subject merchandise for which a producer/exporter combination has been preliminarily determined to have an individual weighted-average dumping margin or individual net countervailable subsidy rate of zero or *de minimis,* as long as that producer/exporter combination is identified in the **Federal Register**, Commerce would not instruct CBP to suspend liquidation of entries of subject merchandise or collect cash deposits. Similarly, with respect to final determinations, proposed § 315.107(c)(3)(ii) states that (1) Commerce would instruct CBP to exclude a producer/exporter combination identified in the **Federal Register** from an AD or CVD order and (2) resellers of subject merchandise cannot benefit from an exclusion applicable to a producer/exporter combination determined in an investigation.

Commerce is also proposing the addition of a fourth paragraph to § 351.107(c) to address cash deposit instructions that require the use of a certification. Commerce added § 351.228 to the regulations in 2021 to require certifications by importers and other interested parties regarding whether merchandise is subject to an AD or CVD order.[13] In accordance with that provision, in certain instances certifications are required to accompany the payment of cash deposits. Proposed § 351.107(c)(4) would add a paragraph that states that the agency may instruct CBP to apply a cash deposit requirement that reflects the record information and effectuates the administration and purpose of the certification.[14]

Current § 351.107(c)(1) provides guidance for applying cash deposit rates where entry documents do not identify the producer of subject merchandise. That paragraph is no longer necessary under this proposed rule because proposed § 351.107(d) and (e) would set forth cash deposit hierarchies that provide more detailed guidance regarding the application of cash deposit rates. Specifically, the hierarchies set forth in proposed § 351.107(d) and (e) would address the situation in which a producer and exporter each have different AD or CVD cash deposit rates and CBP must determine the rate to apply in collecting cash deposits regarding a given entry of subject merchandise. When the entry documents do not identify a specific party (*i.e.,* a producer or exporter) in a step of the proposed cash deposit hierarchy, the subsequent step of the proposed cash deposit hierarchy would apply. When the entry documents do not identify any party for which the Secretary has established a current cash deposit rate, CBP would be instructed to apply the all-others rate or nonmarket economy entity rate to entries of the subject merchandise, pursuant to sections 705(c)(5) and 735(c) of the Act

[9] *See, e.g., Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 79 FR 68860, 68861 (November 19, 2014) (''{Commerce} will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price, with the above-noted adjustments, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this final determination.'').

[10] *See, e.g., Glycine from the People's Republic of China: Preliminary Partial Affirmative Determination of Circumvention of the Antidumping Duty Order and Initiation of Scope Inquiry,* 77 FR 21532, 21535 (April 10, 2012).

[11] For an example of an additional appropriate usage of combination rates, in *Tung Mung Development Co.* v. *United States,* 354 F. 3d 1371, 1380 (Fed. Cir. 2004), *affirming Tung Mung Development Co.* v. *United States,* 219 F. Supp. 2d 1333 (CIT 2002), the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) affirmed Commerce's use of a combination rate in addressing middleman dumping—a situation in which a foreign producer sold merchandise for less than normal value to a foreign exporter, and the foreign exporter subsequently sold the merchandise for even less than normal value to the United States.

[12] *See Common Alloy Aluminum Sheet from Italy: Final Affirmative Determination of Sales at Less Than Fair Value (LTFV),* 86 FR 13309 (March 8, 2021) (stating that ''because the estimated weighted-average dumping margin for Laminazione is zero, entries of shipments of subject merchandise produced and exported by this company will not be subject to suspension of liquidation or cash deposit requirements.''); *see also Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, India, Indonesia, Italy, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Antidumping Duty Orders,* 86 FR 22139, 22141 (April 27, 2021) (finding that ''because the estimated weighted average dumping margin is zero for subject merchandise produced and exported by Laminazione Sottile S.p.A., entries of shipments of subject merchandise from this producer/exporter combination are excluded from the antidumping duty order on subject merchandise from Italy.'').

[13] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52383 (Sept. 20, 2021).

[14] See, *e.g.,* Certain Uncoated Paper From Brazil, the People's Republic of China, and Indonesia: Affirmative Final Determinations of Circumvention of the Antidumping Duty Orders and Countervailing Duty Orders for Certain Uncoated Paper Rolls, 86 FR 71025, 71027 (December 14, 2021) (''Commerce is continuing to impose a certification requirement . . . , in order to not be subject to cash deposit requirements, the importer is required to meet the certification and documentation requirements described in Appendix IV for merchandise from Brazil, Appendix VI for merchandise from China, and VII for merchandise from Indonesia.'').

and proposed § 351.108(b) and § 351.109(f) of Commerce's regulations. These provisions apply only when Commerce has not previously established a combination cash deposit rate for the producer and exporter in question under § 351.107(c)(2).

Commerce routinely articulates a cash deposit hierarchy for market and nonmarket antidumping proceedings in its determinations based on the factors listed in proposed § 351.107(d) [15] and proposes to codify the antidumping market and nonmarket cash deposit hierarchies under paragraphs (d)(1)(i) and (ii), respectively.

The antidumping duty order cash deposit hierarchy for a market economy proceeding proposed in § 351.107(d)(1)(i) includes three steps for determining the applicable cash deposit rate for a given entry of subject merchandise. Commerce would first determine if it has already determined a cash deposit rate for the exporter and, if so, instruct CBP to apply that cash deposit rate to the exporter's entries of subject merchandise. When such an exporter-specific cash deposit rate does not exist, proposed § 351.107(d)(1)(i)(B) would provide that if a cash deposit rate exists for the producer in question, Commerce would instruct CBP to apply that rate to the entries of subject merchandise at issue. If the first and second steps do not yield a result (*i.e.,* Commerce has not previously established a cash deposit rate for either the exporter or the producer of subject merchandise), under proposed § 351.107(d)(1)(i)(C) Commerce would instruct CBP to apply the all-others rate determined in the investigation of the underlying proceeding, pursuant to section 735(c) of the Act and proposed § 351.109(f), as the cash deposit rate for the entries of subject merchandise in question.

For proceedings involving a nonmarket economy country, proposed § 351.107(d)(1)(ii) would apply. First, under proposed § 351.107(d)(1)(ii)(A), if Commerce has already established a cash deposit rate for the exporter, such as in an investigation, the agency would instruct CBP to apply it to the entries of subject merchandise in question. If Commerce has not established a cash deposit rate for the exporter, pursuant to proposed § 351.107(d)(1)(ii)(B) Commerce would instruct CBP to apply the cash deposit established for the nonmarket economy entity pursuant to proposed § 351.108(a) to the entries at issue.

Next, proposed § 351.107(d)(1)(ii)(C) would addresses entries of subject merchandise resold in the United States through a third-country reseller under proceedings involving a nonmarket economy country. In that situation, Commerce would normally instruct CBP to apply the cash deposit rate applicable to either the nonmarket economy country exporter that supplied the subject merchandise to the reseller or to an applicable producer/exporter combination, as warranted.

Finally, proposed § 351.107(d)(2) would provide an exception to the two AD cash deposit hierarchies pursuant to which based on unique facts in an underlying proceeding. Commerce might determine that an alternative cash deposit rate (*i.e.,* a cash deposit rate not identified under proposed paragraph § 351.107(d)(1)) is the most appropriate cash deposit rate to apply to the entries in question, and accordingly instruct CBP to apply that alternative cash deposit rate.

In addition to the AD cash deposit hierarchies set forth in proposed § 351.107(d), proposed § 351.107(e) would establish a new CVD cash deposit hierarchy that applies when the producer and exporter in question have differing cash deposit rates. Under proposed § 351.107(e)(1)(i), when a cash deposit rate is established for both the producer and exporter of subject merchandise, Commerce would instruct CBP to apply the higher of the two rates for the entry of subject merchandise in question. If that step does not apply and a cash deposit rate exists for the producer but not the exporter of subject merchandise, Commerce would instruct CBP to apply the producer's cash deposit rate to the entries in question under proposed § 351.107(e)(1)(ii). If that step does not apply and a cash deposit rate exists for the exporter but not the producer of subject merchandise, Commerce would instruct CBP to apply the exporter's cash deposit rate to the entries of subject merchandise at issue under proposed § 351.107(e)(1)(iii). Finally, if none of those rates exist, Commerce would instruct CBP to apply the all-others rate determined in the investigation to the entries of subject merchandise at issue under proposed § 351.107(e)(1)(iv).

Just as with the AD cash deposit hierarchies' exception found in proposed § 351.107(d)(2), if Commerce determines that a cash deposit rate other than that resulting from the CVD cash deposit hierarchy should apply based on the unique facts in the underlying proceeding, then under proposed § 351.107(e)(2) Commerce might instruct CBP to use an alternative methodology in applying cash deposit rates to entries of subject merchandise.

Proposed § 351.107(f) would address effective dates for amended preliminary and final determinations and results of review upon the correction of a ministerial error, in accordance with sections 703, 705(e), 733, and 735(e) of the Act and § 351.224(e) through (g) of Commerce's regulations. When Commerce amends a preliminary or final determination in an investigation and the amendment increases the dumping margin or the countervailable subsidy rate, proposed § 351.107(f)(1) would provide that the new cash deposit rate would be applied to entries made on or after publication of the amended determination.[16]

On the other hand, under proposed § 351.107(f)(2), when Commerce's amends a preliminary or final determination in an investigation and that amendment results in a decrease of the dumping margin or the countervailable subsidy rate, then the new cash deposit rate would be retroactive to the date of publication of the original preliminary or final determination, respectively.[17]

[15] *See, e.g., Methionine From Spain: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 86 FR 38985, 38986 (July 23, 2021) (''we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondent listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.'') and *Glass Containers From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 85 FR 58333, 58337 (September 18, 2020) (''Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) The cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of Chinese exporters/producers of subject merchandise that have not received their own separate rate, the cash deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter.'').

[16] *See Urea Ammonium Nitrate Solutions from the Republic of Trinidad and Tobago: Amended Preliminary Determination of Sales at Less Than Fair Value,* 87 FR 12935, 12936 (March 8, 2022) (''Because these amended rates result in increased cash deposit rates, they will be effective on the date of publication of this notice in the **Federal Register**.'').

[17] *See Raw Honey from Brazil: Amended Preliminary Determination of Sales at Less Than Fair Value,* 86 FR 71614, 71615 (December 17, 2021) (''Because these amended rates result in

Furthermore, under proposed § 351.107(f)(3), when Commerce amends the final results of an administrative review, the effective date of the amended cash deposit rate would be retroactive to entries following the date of publication of the original final results of review, regardless of whether the dumping margin or countervailable subsidy rate increases or decreases.[18]

In addition to amended cash deposit rates made pursuant to ministerial error corrections under paragraphs § 351.107(f)(1) through (3), Commerce may also make such amendments as a result of litigation when alleged or disputed ministerial errors are at issue. In those circumstances, as reflected in proposed § 351.107(f)(4), the effective date of the amended cash deposit rates may differ from those resulting from the application of § 351.107(f)(1) through (3). Furthermore, proposed § 351.107(f)(4) explains that the applicable effective date following litigation will normally be identified in a **Federal Register** notice. In most cases, in accordance with the statute, such amendments pursuant to litigation will be prospective in application.

4. Describing and Modifying Commerce's Separate Rates Practice and Procedures for Nonmarket Economy Country Antidumping Proceedings—§ 351.108

Section 771(18)(A) of the Act defines a nonmarket economy country as any foreign country which Commerce determines ''does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.'' Further, section 771(18)(C)(i) of the Act states that ''{a}ny determination that a foreign country is a nonmarket economy country shall remain in effect until revoked'' by Commerce.

For over three decades, in antidumping proceedings involving nonmarket economy countries, Commerce has repeatedly determined that legally distinct entities are in a sufficiently close relationship to the government to be considered part of a single entity (*i.e.,* the government-controlled entity).[19] Reflecting that dynamic, current § 351.107(d) states that ''{i}n an antidumping proceeding involving imports from a nonmarket economy country, 'rates' may consist of a single dumping margin applicable to all exporters and producers.''

In the 1991 *Sparklers from China* investigation,[20] Commerce established a separate rate test, which it further developed in a subsequent 1994 investigation on *Silicon Carbide from China.*[21] Under the separate rate test, if an entity can demonstrate that the foreign government does not have either legal (*de jure*) control or control in fact (*de facto*) over the entity's export activities, it may receive a separate rate. Commerce's separate rate test has been affirmed as in accordance with law and otherwise acknowledged multiple times by the Federal Circuit.[22]

Over the past decade, Commerce has modified its practice pursuant to a series of CIT decisions and remand redeterminations. For example, in *Advanced Technology,* the CIT held that Commerce's traditional separate rate practice was deficient because it failed to recognize the authority that a government may hold over an entity's commercial activities when it owns a significant portion of that entity.[23] Accordingly, consistent with the Court's holdings on this issue, it is now Commerce's practice to conclude that when a government holds a majority ownership share, either directly or indirectly, in a respondent exporting entity, the majority holding in and of itself demonstrates that the government exercises, or has the potential to exercise, control over the entity's operations generally.[24] This may include control over, for example, the selection of management, a key factor in determining whether an entity has sufficient independence in its export activities to merit a separate rate. Consistent with normal business practices, Commerce would expect any majority shareholder, including a government, to have the ability to control, and an interest in controlling, the operations of the entity, including the selection of management and the strategic and financial decisions of the entity. Thus, under Commerce's current separate rate practice, if a foreign government holds a majority ownership share of a respondent exporting entity, Commerce will not grant that entity a separate rate.

As described below, Commerce is now proposing to codify Commerce's separate rate practice in § 351.108. Although a government in a nonmarket economy country may own or control entities located both within and outside of a nonmarket economy country, the proposed regulation addresses only the application of Commerce's separate rate practice to entities located within the nonmarket economy country. In addition, Commerce is also proposing to modify its separate rate practice in § 351.108 to address additional real-world factors through which a foreign government can control or influence production decisions, pricing and sales decisions, and export behavior. Finally, Commerce is proposing the codification and modification of separate rate application and certification requirements.

Proposed § 351.108(a) would provide that if Commerce determines that entities located in a nonmarket economy country are subject to government control (*i.e.,* in a sufficiently close relationship to be considered part of a single entity, the government-controlled entity), absent evidence on the record indicating otherwise, Commerce will assign such entities a single antidumping duty deposit rate. This paragraph replaces current § 351.107(d) and clarifies that the single cash deposit or assessment rate is called ''the nonmarket economy entity rate.''

Proposed § 351.108(b) would provide that an entity may receive its own rate, separate from the nonmarket economy entity rate, if it demonstrates to

reduced cash deposit rates, they will be effective retroactively to . . . the date of publication of the Preliminary Determination.'').

[18] *See Certain Carbon and Alloy Steel Cut-to Length Plate from Belgium; Amended Final Results of Antidumping Duty Administrative Review,* 2018–2019, 86 FR 21274 (April 22, 2021) (''The following cash deposit requirements will be effective retroactively for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after March 24, 2021, the publication date of the *Final Results* of this administrative review.'').

[19] *See Fine Denier Polyester Staple Fiber from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 83 FR 6335 (Jan 5, 2018), and accompanying Preliminary Decision Memorandum, dated December 18, 2017, at ''Separate Rates'' (*Polyester Staple Fiber from the PRC PDM*). For an example of a Commerce determination finding a country is a non-market economy, *see Antidumping Duty Investigation of Certain Aluminum Foil From the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017).

[20] *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, 20589 (May 6, 1991) (*Sparklers from China*).

[21] *See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, 22586–22587 (May 2, 1994) (*Silicon Carbide from China*).

[22] *See Diamond Sawblades Mfrs. Coal.* v. *United States,* 866 F.3d 1304, 1310–11 (Fed. Cir. 2017); *see also Changzhou Hawd Flooring Co.* v. *United States,* 848 F.3d 1006, 1009 (Fed. Cir. 2017); *Dongtai Peak Honey Indus. Co.* v. *United States,* 777 F.3d 1343, 1349–50 (Fed. Cir. 2015); and *Canadian Solar Int'l LTD* v. *United States,* 68 F. 4th 1267, 1270 (Fed. Cir. 2023).

[23] *See Advanced Technology & Materials Co., Ltd.* v. *United States,* 885 F. Supp. 2d 1343, 1349–1357 (CIT 2012), affirmed in *Advanced Technology & Materials Co., Ltd.* v. *United States,* Case No. 2014–1154 (Fed. Cir. 2014).

[24] *See, e.g., Polyester Staple Fiber from the PRC* PDM at ''Separate Rates.''

Commerce that it was sufficiently independent from the control of the nonmarket economy government with respect to its commercial and export activities during the relevant period of investigation or review to justify the application of a separate rate. The regulation would then set forth the circumstances and criteria which Commerce would consider in determining if the application of a separate rate is warranted based on record information.

The first circumstance pertains to nonmarket economy government ownership and control. When a government, at any level, owns an entity, either directly or indirectly, the proposed regulation describes certain situations in which no separate rate will be permitted. The first ownership situation, set forth in § 351.108(b)(1)(i), as described above and consistent with Commerce's current practice, is when the government has a majority share, described as ''over fifty percent ownership,'' of the entity. If the government owns more than fifty percent of an entity subject to an antidumping proceeding, Commerce will not determine that the entity is separate from government control and will not calculate a separate rate for that entity.

In addition, proposed § 351.108(b)(1)(ii) sets forth a modification to Commerce's practice in addressing four specific situations in which the government has an ownership interest which is fifty percent or less of an entity but still has the ability to control or influence the entity's production and commercial decisions. Under those specific situations, in accordance with this Proposed Rule, Commerce would not determine that the entity is separate from government control and thus would not calculate a separate rate for that entity.

Under the first circumstance, set forth in proposed § 351.108(b)(1)(ii)(A), if the government's ownership share provides it with a greater degree of control or influence over the entity's production and commercial decisions than an ownership share of that amount would normally entail absent such special treatment, and Commerce concludes that the degree of control or influence of the entity is significant,[25] the entity would not be eligible for a separate rate. Such special shares in a company are sometimes referred to as ''golden shares.'' [26] When a government owns such special shares it may have the ability to exercise a disproportionate level of influence or control over an entity's decisions central to Commerce's calculations.

Under the second circumstance, set forth in proposed § 351.108(b)(1)(ii)(B), if the government has the authority to veto or control an entity's production and commercial decisions, Commerce would find the entity at issue ineligible for a separate rate. Such authority can have an outsized effect on the production and commercial decisions made by an entity, so Commerce has concluded it would be inappropriate to find an entity eligible for a separate rate if the government holds veto power or control over these decisions.

Under the third circumstance, as set forth in proposed § 351.108(b)(1)(ii)(C), if government officials, employees, or representatives hold positions of authority in the entity, including as members of the board of directors or other governing authorities in the entity, that have the ability to make or influence production and commercial decisions for the entity, then Commerce would find the entity at issue ineligible for a separate rate.

Likewise, under the forth circumstance, set forth in proposed § 351.108(b)(1)(ii)(D), if the entity is obligated by law, its foundational documents (such as its articles of incorporation), or other *de facto* requirements to maintain one or more officials, employees, or representatives of the government in positions of power (including as members of the board of directors or other governing authorities in the entity, which have the ability to make or influence production and commercial decisions for the entity at issue), then Commerce would not calculate a separate rate for the entity in that situation. Unlike the scenario described in § 351.108(b)(1)(ii)(C), there is no requirement in this paragraph that a government official, employee, or representative actually hold such an influential position in the entity, only that information on the record shows that the entity is required to have a government official, employee, or representative hold such a position. Whether there is the potential for a government official, employee or representative taking a position of power, or the government official, employee or representative actually holds such a position of power, both situations are means by which the government could exercise an outsized amount of influence or control over the entity.[27] Boards of directors generally control many of an entity's production and commercial decisions, so if the entity is required to have a government representative on a board of directors, for example, then it is reasonable to conclude that the government representative on the board could also exercise control, or could have the potential to exercise control, over the entity's production and pricing decisions.

It is Commerce's observation over many years of administering AD and CVD proceedings that government entities who own the same percentage of shares of a company as non-government entities do not always have the same influence over company decisions as the non-government entities. In fact, Commerce has observed that governments that have ownership interest in companies and have officials, employees, or representatives in positions of power within those companies frequently hold greater influence over company decisions than those without the institutional, political and resource backing of the government.[28] Furthermore, it is also Commerce's observation that government representatives often do not

[25] A determination that the degree of control or influence is ''significant'' would be based on a case-by-case analysis and dependent on consideration of the government's, as well as other shareholder's, abilities to control or influence the entity's production and commercial decisions. For example, the government may own one percent of the shares of an entity and still make certain production or commercial decisions for the entity despite disagreement by the owners of the other ninety-nine percent of shares. The significance of the degree of control or influence by the government would be entirely dependent on the facts on the record before Commerce.

[26] Organization for Economic Co-operation and Development, OECD Guidelines on Corporate Governance on State-owned Enterprises, 17–16 (2015) (''Some borderline cases need to be addressed on a case-by-case basis. For example, whether a ''golden share'' amounts to control depends on the extent of the powers it confers on the state.'') and (''{M}inority ownership by the state can be considered as covered by the Guidelines if corporate or shareholding structures confer effective controlling influence on the state (*e.g.,* through shareholders' agreements.''). *See also id.* at 63 (''Any special rights or agreements that diverge from generally applicable corporate governance rules, and that may distort the ownership or control structure of the SOE, such as golden shares and power of veto, should be disclosed.'').

[27] *Id.* at 14 (''Examples of an equivalent degree of control'' to the state ''being the ultimate beneficiary owner of the majority of voting shares'' would include, ''for instance, cases where legal stipulations or corporate articles of association ensure continued state control over an enterprise or its board of directors in which it holds a minority stake.'').

[28] This observation is most notable in Commerce's CVD proceedings involving China. Commerce has observed that the Chinese government has certain ownership interests which allow it to influence certain companies and individuals. *See, e.g.,* Commerce Memorandum, ''Countervailing Duty Administrative Review of Steel Racks from the People's Republic of China: Public Bodies Analysis Memo,'' dated August 2, 2022 (ACCESS Barcode 4270527–01—4270527–10), at 16–20.

have the entity's profits as their primary motivating factor, unlike most non-government share-holders.[29]

To be clear, Commerce is not proposing that any of these factors, standing alone without some amount of government ownership, would result in a denial of a separate rate. However, if the government has a minority ownership in the entity and one of these four factors exists as well, then, as with majority ownership, there exists the ability or potential for the nonmarket economy government to exercise control over the entity's operations in general, thereby warranting a determination that no separate rate should be calculated for that entity.

Under proposed § 351.108(b)(2) and (3), if an entity demonstrates that there is no majority government ownership of the entity or there is fifty percent or less government ownership and the criteria listed in § 351.108(b)(1)(ii) do not exist, Commerce would then apply its analysis to determine the existence or absence of *de jure* or *de facto* nonmarket economy government control. In addition to the three factors historically considered by Commerce in applying its *de jure* analysis (the absence of restrictive stipulations by the government associated with an individual entity's business and export licenses, legislative enactments decentralizing government control of companies, and other formal measures by the government decentralizing control of companies) and the four factors historically considered by Commerce in applying its *de facto* analysis (whether export prices are set by or are subject to the approval of a government agency, whether the entity has authority to negotiate and sign contracts and other agreements without government involvement, whether the entity has autonomy from the government in making decisions regarding the selection of its management, and whether the entity retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses), Commerce is also proposing the consideration of three additional relevant factors for purposes of applying a separate rate.

First, under proposed § 351.108(b)(2)(i), as part of the *de jure* analysis, an entity would be required to demonstrate that there is no legal requirement that one or more officials, employees, or representatives of the government serve as officers of the entity, members of the board of directors, or other governing authorities in the entity which make or influence export activity decisions.

Similarly, under proposed § 351.108(b)(3)(i), as part of the *de facto* analysis, if an entity has demonstrated that the factors listed in § 351.108(b)(1)(i), (ii), and (2) do not apply to the entity, it would be required to demonstrate that there are no government officials, employees, or representatives actually serving in such leadership roles in the entity. Similar to the inclusion of government representatives in company positions that allow them to make or influence production or commercial decisions discussed above when there is partial government ownership, these factors are included in the *de jure* and *de facto* analyses to consider if government officials, employees, or representatives, regardless of government ownership of entity, may be in a position to control or influence an entity's export activities.

Furthermore, Commerce proposes in § 351.108(b)(3)(vi) that a sixth factor be included in its *de facto* analysis, allowing Commerce to consider ''any additional evidence on the record suggesting that the government has no direct or indirect influence over the entity's export activities.'' It is not Commerce's intention in this Proposed Rule to provide an exhaustive list of examples of additional evidence that might indicate *de facto* government influence over export activities, and such a determination would be left to Commerce to determine based on the information on the record on a case-by-case basis. However, one example of means by which a government could influence an entity's export activities that is not articulated in the regulation is through threats, coercion, or intimidation. If the administrative record showed that the government participated in or sanctioned threats, coercion, or intimidation of an entity, either directly or indirectly, and those actions impacted, or likely influenced, the entity to modify its export activities, Commerce would deny separate rate treatment to an entity under this provision. Governments can influence the export activities of companies through a variety of *de facto* means, such as through company decision-making when the government is an owner of shares in a company, when there are ''insiders'' within the company who directly work for the entity but take orders from the government, or when decision-making is made under duress associated with government-directed threats, coercion, and intimidation.[30] This provision is intended to make certain that all such relevant *de facto* scenarios are captured and considered in Commerce's separate rate *de facto* analysis.

In addition, proposed § 351.108(c) would explain that if a company is located in a nonmarket economy and is subject to a nonmarket economy country proceeding, but is wholly owned by a market economy foreign entity, then the application of the separate rate analysis codified in paragraph (b) would be unnecessary to determine whether it is independent of nonmarket economy government control.[31] The paragraph would clarify that for an entity to be wholly owned by a market economy foreign entity, the foreign entity must be both incorporated and headquartered in a market economy country or countries. Thus, for purposes of this provision, if a foreign entity is incorporated in a market economy country but headquartered in a nonmarket economy country, Commerce would not consider the company located in the nonmarket economy to be wholly owned by a market economy foreign entity. Likewise, if the foreign entity is headquartered in a market economy but incorporated in a nonmarket economy country, Commerce would not consider the company located in the nonmarket economy to be wholly owned by a market economy foreign entity, for purposes of this provision. In either of those situations, Commerce would conduct its separate rate analysis of the company located in the nonmarket economy under the understanding that the company is from the nonmarket economy country. The reason for this requirement is simple: Commerce does not want companies to evade the application of its separate rates analysis when those companies are owned by entities either headquartered or

[29] Likewise, Commerce has also observed in China CVD proceedings that profit is frequently not the government representatives' primary motivating factor in making share-holder decisions. *See, e.g.,* Commerce Memorandum, ''Countervailing Duty Administrative Review of Steel Racks from the People's Republic of China: Analysis of China's Financial System,'' dated August 3, 2022 (ACCESS Barcode 4270869–01—4270869–13) at 3–7; 17–19.

[30] Commerce does not intend to provide an exhaustive list of types of threats, coercion or intimidation which governments may use on an entity or an entity's colleagues, associates, friends and family members to control or influence an entity's export behavior. Some obvious examples involve bodily harm (kidnapping, defenestration, muggings), harm to property (arson, vehicular damage, personal property damage), blackmail, threats to living welfare (such as threats to employment and access to housing, electricity, heating, internet and medical care), or cyber-attacks, but there are many additional examples which do not fall into these categories and would still be considered threats, coercion or intimidation which could control or influence an entity's export decisions under Commerce's *de facto* analysis.

[31] *See Polyester Staple Fiber from the PRC PDM* at ''Separate Rates.''

incorporated in a nonmarket economy country and may be controlled by the nonmarket economy government.

Proposed § 351.108(d)(1) and (2) would codify the requirement that separate rate applications and certifications be submitted by each entity seeking a separate rate. In antidumping investigations, new shipper reviews, and administrative reviews in which an entity has not previously been assigned a separate rate, the entity must file a separate rate application, the form of which, pursuant to the proposed regulation, Commerce would make available to the public. In administrative reviews in which an entity already has been assigned a separate rate, under proposed § 351.108(d)(3), the entity would instead file a certification attesting that it had entries for which liquidation was suspended during the period of review and that it otherwise continued to meet the criteria for obtaining a separate rate.

Under these provisions, for new shipper reviews and administrative reviews, Commerce has included a proposed requirement that interested parties submitting an application must provide documentary evidence of an entry with the separate rate applications for which liquidation was suspended during the period of review in § 351.108(d)(2). Commerce would not consider separate rate applications in new shipper reviews and administrative reviews if it is possible that no entry was suspended during the period of review for a particular entity, because without entries to which Commerce could assess duties there would be no purpose for a separate rate analysis. Furthermore, § 351.108(d)(3) would explain that if the agency determined in a previous segment of the proceeding that certain exporters and producers should be treated as a single entity, then a separate rate certification in a subsequent administrative review must identify and certify the required information for all of the companies comprising that single entity.

Commerce is also proposing in § 351.108(d)(1), (2), and (3) that all separate rate applications and certifications [32] be filed with Commerce no later than fourteen days following publication of the notice of initiation of an investigation or review in the **Federal Register**. This would be a change from the current thirty-day deadline.[33] The current thirty-day deadline delays Commerce from selecting respondents in its nonmarket economy proceedings because Commerce cannot select respondents for individual examination until it first determines the pool of exporters who have satisfied the separate rate analysis. Likewise, until Commerce selects respondents, it cannot issue respondent questionnaires. Commerce has determined that by revising the deadline for submitting separate rate applications and certifications to Commerce to fourteen days, Commerce will be able to select respondents sooner in its investigations and reviews, and thereby provide more time for Commerce to conduct its proceedings.

The last proposed provision of § 351.108 is paragraph (e), which would require entities that have submitted separate rate applications or certifications, and then are subsequently selected to be examined as an individually examined respondent, respond to all sections of Commerce's antidumping questionnaire in order to be eligible for a separate rate. In other words, all entities filing a separate rate application or certification must be prepared to fully participate in Commerce's proceedings if they are selected to be individually examined respondents.

5. Including Procedures for Selecting Respondents, Calculating an All-Others Rate, Calculating a Rate for Unexamined Respondents, and Selecting Voluntary Respondents—§ 351.109

Sections 777A(c)(1) and 777A(e)(1) of the Act direct Commerce to determine an individual weighted-average dumping margin or countervailable subsidy rate for each known exporter and producer of the subject merchandise. However, Commerce may limit its examination to a reasonable number of exporters or producers under sections 777A(c)(2) and 777A(e)(2) of the Act if it determines that it is not practicable to determine an individual weighted-average dumping margin or countervailable subsidy rate because of the large number of exporters or producers involved in the investigation or review.

In addition, sections 703(d)(1)(A), 705(c)(5), 733(d)(1)(A), and 735(c)(5) of the Act set forth the general rules and exceptions which Commerce applies in investigations for determining the rate applied to all exporters and producers not individually examined in the investigation, known as all-others rate, in both the preliminary and final determinations.

Finally, section 782(a) provides that in investigations and administrative reviews in which Commerce has limited the number of exporters or producers examined, or determined a single-country wide rate, Commerce may select voluntary respondents for examination if certain criteria are satisfied.

The current regulations do not address the all-others rate and provide little guidance about limiting examination of exporters and producers; what guidance does exist in the regulation applies only in investigations. The current voluntary respondent regulation at § 351.204(d) applies only to investigations, does not provide details about voluntary respondent submission deadlines, and does not reference Commerce's practice for selecting voluntary respondents when there is more than one voluntary respondent treatment request on the record. Commerce is therefore proposing the addition of § 351.109 to its regulations to address and clarify each of these issues.

Proposed § 351.109(a) would introduce each of these concepts, including Commerce's respondent selection practice. Commerce's statutory authority to engage in respondent selection is built on the proposition ''that the largest exporters by volume are assumed to be representative of the non-selected respondents.'' [34] The Act creates this assumption of representativeness by explicitly addressing the impracticability of individually examining a large number of respondents and the expectation that Commerce use the rates calculated for the mandatory respondents as the basis for the rate for firms not selected for individual examination.[35]

Commerce's respondent selection practice is not a means to gauge whether a potential respondent is willing to participate in an investigation or review, but rather whether Commerce can effectively examine a reasonable number of producers and exporters, as

[32] Separate rate application and certification forms are available on Commerce's website, which is recognized in Commerce's nonmarket economy AD initiation notices. *See, e.g., Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 35165, 35166–67 (June 9, 2022) (''The Separate Rate Certification form will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice.'').

[33] *See, e.g., Glass Wine Bottles from Chile, the People's Republic of China, and Mexico: Initiation of Less-Than-Fair-Value Investigations,* 89 FR 4911, 4914 (Jan 25, 2024).

[34] *See PrimeSource Bldg. Prod., Inc.* v. *United States,* 581 F. Supp. 3d 1331 (CIT 2022) (''Consistent with this assumption, the cases also stand for the proposition that Commerce is expected to use the mandatory respondents' rates to determine the antidumping duty rate to be assigned to the non-selected respondents.'').

[35] *See* sections 777A(c)(2) and 777A(e)(2)(A) of the Act.

Congress intended, to calculate an accurate dumping margin or countervailable subsidy rate.[36] The Act explicitly allows Commerce to focus its resources on individual examination of certain respondents and, in doing so, allows Commerce to decline to examine others.[37] In codifying Commerce's respondent selection practice, the agency seeks to promote transparency and efficiency when conducting administrative reviews and investigations involving a large number of known exporters and producers of subject merchandise.

Sections 777A(c)(1) and 777A(e)(1) of the Act direct Commerce to determine an individual weighted-average dumping margin or countervailable subsidy rate for each known exporter and producer of the subject merchandise in an investigation [38] or administrative review, where practicable, and Commerce has proposed codifying that language in § 351.109(b).

However, in many of Commerce's investigations and administrative reviews, there are a large number of exporters and producers of the merchandise under investigation or review, and therefore Commerce normally does not have the resources to examine ''each known exporter and producer.'' [39] Accordingly, Commerce limits the exporters or producers under examination consistent with sections 777A(c)(2) and 777A(e)(2) of the Act.[40] In doing so, Commerce normally issues a respondent selection memorandum that provides its respondent selection analysis, which has been affirmed by the CIT as in accordance with law.[41]

Proposed § 351.109(c) would codify Commerce's long-standing respondent selection analysis, whereby Commerce determines based on record information whether it is practicable to determine individual dumping margins or countervailable subsidy rates for every exporter or producer. If it is not practicable to do so because of the large number of exporters or producers involved in an investigation or review, in accordance with proposed § 351.109(c)(1), Commerce would then determine the exporters or producers to be examined based on either a sample of exporters or producers that is statistically valid based on record information or the number of respondents that can be reasonably examined based on the largest volume of exports of subject merchandise from the exporting country.

Notably, the Act does not provide guidance as to how Commerce should reach a statistically valid result or how Commerce must account for the largest volume of subject merchandise that can reasonably be examined.[42] Moreover, the Act does not require Commerce to use only the two aforementioned methodologies in limiting its examination.[43] Rather, the Act grants Commerce discretion in reaching a ''reasonable number'' of respondents for individual examination, accounting for any practicability concerns that may affect Commerce's ability to examine multiple respondents.[44]

When Commerce determines to limit the number of exporters or producers for individual examination based on the largest volume of exports of subject merchandise from the exporting country, proposed § 351.109(c)(2)(i)–(iv) would provide the factors Commerce will consider as part of its analysis. Under § 351.109(c)(2)(i), Commerce would first select the data source to determine the largest exporters or producers of subject merchandise. Normally, Commerce's selection would be based on information derived from CBP, but Commerce may use another reasonable means of selecting potential respondents in an investigation or review, such as quantity and value questionnaires. Under § 351.109(c)(2)(ii), Commerce would then select the largest exporters or producers of the subject merchandise. Normally, that analysis would be conducted based on the volume of imports of subject merchandise. However, the analysis may instead be conducted based on the value of imported products, depending on the product and record information.

Under proposed § 351.109(c)(2)(iii), once the list of exporters or producers with the largest number of imports, either through volume or value, is compiled, Commerce would next determine if the number of exporters or producers on the list is too large to practically individually examine each known exporter and producer of subject merchandise. This provision lists the factors which Commerce might consider in making such a determination, including the amount of resources and detailed analysis which would be necessary for Commerce to examine each potential respondent's information, the current and future workload of the office administering the proceeding, and Commerce's overall current resource availability.

Under proposed § 351.109(c)(2)(iv), if Commerce determines that the number of exporters is too large to practically individually examine each known exporter or producer of the subject merchandise, Commerce would then determine the number of exporters or producers which can be reasonably examined. Under this provision, Commerce would first consider the total and relative volumes (or values) of entries of subject merchandise for each potential respondent derived from the data source considered in § 351.109(c)(2)(ii), then rank potential respondents by the total volume or value of entries into the United States during the relevant period. Lastly, Commerce would determine how many respondents it can reasonably examine based on that information and select the exporters or producers with the largest

[36] *See Parkdale Int'l* v. *United States,* 475 F.3d 1375, 1380 (Fed. Cir. 2007) (citing *Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185, 1191 (Fed. Cir. 1990)).

[37] *Id.*

[38] For investigations, specifically, current § 351.204(c) reflects this general rule. Proposed § 351.109(b) would replace that provision, as explained below, and would apply equally to administrative reviews, consistent with the language of sections 777A(c)(1) and 777A(e)(1) of the Act.

[39] *See, e.g.,* Commerce Memorandum, ''2020–2021 Antidumping Duty Administrative Review of Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Selection of Respondents for Individual Examination,'' dated March 18, 2022, (ACCESS Barcode 4222983–1).

[40] *Id.*

[41] *See Mid Continent Nail Corp.* v. *United States,* 949 F. Supp. 2d 1247, 1274 (CIT 2013) (*Mid Continent Nail Corp.*) (affirming ''Commerce's decision not to conduct individual reviews of all respondents was properly based on the agency's determination that the proceeding here involved a ''large number'' of exporters and producers.'').

[42] *See Shanxi Hairui Trade Co.* v. *United States,* 503 F. Supp. 3d 1307, 1320 (CIT 2021), *aff'd,* 39 F.4th 1357 (Fed. Cir. 2022) (''The statute authorizes Commerce to employ a statistically valid sampling method when choosing respondents to investigate, but does not instruct Commerce as to how to reach a statistically valid result in calculating the sample rate . . .''); *Pakfood Pub. Co.* v. *United States,* 753 F. Supp. 2d 1334, 1343 (CIT 2011), *aff'd,* 453 F. App'x 986 (Fed. Cir. 2011) (''{Commerce}turns to issuing Q & V questionnaires or other sources of information when the CBP data for the subject merchandise in question does not provide sufficient or adequate data for the Department's respondent selection purposes.'').

[43] *See United States* v. *Rodgers,* 461 U.S. 677, 706 (1983) (''The word ''may,'' when used in a statute, usually implies some degree of discretion . . . {but} can be defeated by indications of legislative intent to the contrary or by obvious inferences from the structure and purpose of the statute.'').

[44] *See Mid Continent Nail Corp.,* 949 F. Supp. 2d at 1272 (''{N}either the statute nor the legislative history makes any reference to ''reasonable volume'' (only ''the largest volume of the subject merchandise . . . that can be reasonably examined.'')); *see also Husteel Co.* v. *United States,* 98 F. Supp. 3d 1315, 1331 (CIT 2015) (citing *Mid Continent Nail Corp.,* 949 F. Supp. 2d at 1272) (''{N}othing herein should be understood to suggest that Commerce's discretion to choose between the two methodologies . . . is wholly unfettered, or that 'representativeness' could never constrain Commerce's ability to . . . affect a determination as to whether a specific number of exporters and producers is ''reasonable'' given the facts of a particular case.'').

volume or values of entries consistent with that number.

In addition, proposed § 351.109(c)(2)(v) would address situations in which one or more selected potential respondents do not respond to Commerce's questionnaires or elect to withdraw from participation in the segment of the proceeding soon after filing questionnaire responses, or, early in the segment of a proceeding, Commerce determines that they are no longer participating in the investigation or administrative review [45] or that their U.S. sales are not *bona fide* sales of subject merchandise.[46] In each of those cases, when Commerce is selecting respondents based on the largest exporter or producers, Commerce proposes, at its discretion, to select the exporter or producer with the next largest volume or values to replace the respondents initially selected for examination.[47]

With respect to proposed § 351.109(d), it is important to recognize that current § 351.204(c) states that Commerce ''may decline to examine a particular exporter or producer if that exporter or producer and the petitioner agree.'' Commerce proposes to move this provision to new § 351.109(d) and revise it to become a waiver provision.[48] Accordingly, the proposed new paragraph states that Commerce may waive individual examination of an exporter or producer if both the selected respondent and petitioner file waiver requests for that exporter or producer no later than five days after Commerce has selected respondents. If Commerce determines to provide such a waiver and had selected the waived respondent based on an analysis of the largest exporters or producers, proposed § 351.109(d) provides that Commerce could select the next largest exporter or producer to replace the waived respondent.

Proposed § 351.109(e) restates Commerce's expressed authority under section 777A(e)(2)(B) of the Act to calculate a single country-wide subsidy rate for all exporters and producers if it is not practicable to determine individual countervailable subsidy rates due to the large number of exporters or producers involved in the investigation or review.[49]

Section (f) of proposed § 351.109 would set forth the calculation of the all-others rate set forth for final determinations in sections 705(c)(5) and 735(c)(5) of the Act and generally described for preliminary determinations in sections 703(d)(1)(A) and 733(d)(1)(A) of the Act. As the Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA) explains, these provisions allow for Commerce to ''calculate individual dumping margins for those firms selected for examination and an 'all others' rate to be applied to those firms not selected for examination.'' [50] According to the SAA, the goal of the ''all others'' rate is to reflect the actual dumping margin or countervailing subsidy rate of the non-selected respondents as accurately as possible.[51]

Proposed sections 351.109(f)(1)(i) and (ii) would set forth the general rule for determining the all-others rate as reflected in sections 705(c)(5)(A)(i) and 735(c)(5)(A)(i) of the Act. Those provisions state that, in general, the all-others rate will be equal to the weighted average of the dumping margins or countervailable subsidy rates calculated for those exporters and producers that are individually investigated, exclusive of any zero and *de minimis* margins, and any margins determined entirely on the basis of the facts available.[52]

However, Commerce has encountered two common scenarios in which the application of the general rule for determining the all-others rate would not be appropriate or would have negative consequences based on the facts on the record. Accordingly, Commerce proposes to codify these exceptions in new § 351.109(f)(2)(i) and (ii). In one scenario, if Commerce determines that only one examined respondent's countervailable subsidy rate or weighted-average dumping margin satisfies the criteria set forth in sections 705(c)(5) and 735(c)(5) of the Act, respectively, Commerce applies that countervailable subsidy rate or weighted-average dumping margin as the all-others rate.[53] That scenario and practice would be codified in § 351.109(f)(2)(i).[54]

In the other common scenario, Commerce calculates dumping margins or countervailable subsidy rates for two or more individually investigated exporters or producers and then determines that if it were to calculate an all-others rate using the actual, weighted-average dumping margins or countervailable subsidy rates based on the entities' proprietary information, the resulting all-others rate would inadvertently divulge each respondent's proprietary information to the other individually investigated exporter or producer. This can occur, for example, when Commerce determines the all-others rate by determining a weighted-

[45] *See, e.g., Fresh Garlic from the People's Republic of China: Final Results of the Changed Circumstances Review,* 80 FR 57579 (September 24, 2015), and accompanying Issues and Decision Memorandum at Comment 4 (analyzing the additional burdens of selecting another respondent following the withdrawal of a selected respondent); *see also Viet I-Mei Frozen Foods Co.* v. *United States,* 83 F. Supp. 3d 1345, 1362 (CIT 2015), *aff'd,* 839 F.3d 1099 (Fed. Cir. 2016) (''{T}o the prevention of abuse where Commerce expends resources to initiate an individual examination—and the respondent seeks to withdraw its participation when it changes its mind about the benefit of such examination and prefers the 'all others' rate instead—is a reasonable basis on which Commerce may decline to abort its examination.'').

[46] Commerce has a long history of reviewing only *bona fide* sales in investigations, administrative reviews and new shipper reviews. *See, e.g., Windmill Int'l Pte* v. *United States,* 193 F. Supp. 2d 1303, 1312–1314 (CIT 2002) (affirming Commerce's rescission of an administrative review because it determined that the respondent's sale of two cut-to-length carbon steel plates to the United States was not ''commercially reasonable and was atypical of the normal business practices between Windmill and the United States purchaser.''). Therefore, the language as proposed will have Commerce select respondents only from those exporter or producers with *bona fide* sales to the United States. In determining if a sale is *bona fide,* Commerce may consider the factors listed in section 751(a)(2)(B)(iv) of the Act and § 351.214(k).

[47] Although this provision would apply when Commerce selects respondents based on the largest exporters or producers of subject merchandise, it could also select further respondents when using a sampling methodology to select a respondent for individual examination, although in that case Commerce need not select additional exporters or producers based on the volume or value of imports.

[48] *See Oregon Steel Mills Inc.* v. *United States,* 862 F.2d 1541, 1545–46 (Fed. Cir. 1988) (recognizing that Congress intended to allow Commerce the authority to avoid the investigative burden associated with an administrative review in situations where the domestic industry has no continued interest in proceeding).

[49] *See, e.g., Honey from Argentina: Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Determination on Honey from the People's Republic of China,* 66 FR 14521, (March 13, 2001) (''Commerce determined that it would not be practicable to investigate alleged countervailable subsidies received by individual honey producers and exporters in Argentina.'') and *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada,* 67 FR 15545, 15547 (April 2, 2002).

[50] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316 (1994) (SAA) at 873, reprinted in 1994 U.S.C.C.A.N. 4040, 4200.

[51] *Id.*

[52] *See* sections 705(c)(5) and 735(c)(5) of the Act; *see also MacLean-Fogg Co.* v. *United States,* 753 F.3d 1237, 1239 (Fed. Cir. 2014) (recognizing that ''{t}o establish the all-others rate, Commerce first discarded the AFA rate assigned to the three mandatory respondents—correctly so . . .'').

[53] *See Mid Continent Steel & Wire, Inc.* v. *United States,* 321 F. Supp. 3d 1313, 1321 (CIT 2018) (''Applying the statutory method, Commerce excluded the PRC-wide rate assigned to {a mandatory respondent} and relied on the only other calculated rate, in {the} segment, that was not zero, *de minimis,* or based entirely on facts available or AFA . . .'').

[54] *Id.*

average of the rates calculated for two exporters or producers, because each respondent can often figure out their competitor's proprietary information through the resulting weighted-average rate.[55]

Over time, Commerce has implemented a practice to address such a situation, which the agency proposes to codify in § 351.109(f)(2)(ii)(A)–(C). Specifically, Commerce first calculates the weighted average of the dumping margins or countervailable subsidy rates for the individually-investigated respondents using their reported data, including business proprietary data, then calculates a simple average of the individually-investigated respondents' dumping margins or countervailable subsidy rates, as well as a weighted-average dumping margin or countervailable subsidy rate based on the respondents' publicly-ranged data.[56] Once Commerce has both the simple average and publicly-ranged weighted-average margins or rates, Commerce compares them to the margins or rates calculated using the companies' proprietary information.[57] If the simple average is numerically closer to the weighted-average margin or rate using the proprietary information, Commerce would use the simple average for the all-others rate.[58] If the weighted-average margin or rate based on publicly-ranged information is closer to the weighted-average margin or rate based on proprietary data, then that margin or rate, instead, would be the margin or rate Commerce applies to the all-other exporters and producers.[59]

In addition, sections 705(c)(5)(A)(ii) and 735(c)(5)(A)(ii) of the Act provide for an exception to the general all-others rule, which would be reflected in proposed § 351.109(f)(2)(iii). Those provisions of the Act state that if the calculated rates for all selected respondents are zero, *de minimis,* or based entirely on facts available under section 776 of the Act, Commerce may use ''any reasonable method to establish an all-others rate for exporters and producers not individually examined.'' [60] The Act and proposed regulation emphasize that one reasonable method Commerce may use under this exception includes ''averaging the estimated weighted average dumping margins or countervailable subsidy rates determined for the individually investigated exporters and producers'' using rates that are zero, *de minimis,* or based entirely on facts available.[61] The SAA provides that ''the expected method is for Commerce to weight-average such rates to determine the non-selected respondents' rate.'' [62] However, the SAA also states that if the expected method ''is not feasible, or if it results in an average that would not be reasonably reflective of potential dumping margins for non-investigated exporters or producers, Commerce may use other reasonable methods.'' [63]

Over the many years Commerce has applied its nonmarket economy country methodology, when the agency has determined that the nonmarket economy country entity has not participated in its proceedings or acted to the best of its ability in providing necessary information, Commerce has consistently applied a nonmarket economy country rate consisting of a single dumping margin applicable to all exporters and producers not receiving a ''separate rate'' in accordance with the facts available and adverse facts available provisions of sections 776(a) and (b) of the Act and current § 351.107(d).[64] Commerce has consistently explained that a nonmarket economy country entity is a singular entity, a nonmarket economy country rate is not an all-others rate, and the all-others rate provision in the Act does not apply in AD investigations covering nonmarket economy countries.[65] To provide clarity to the public, Commerce proposes § 351.109(f)(3), which would explain both that the rate determined for a nonmarket economy country entity is not an all-others rate and that unlike an all-others rate, which may not be increased or decreased in subsequent segments of an AD proceeding, a nonmarket economy country entity rate may be modified in subsequent segments of a proceeding if the nonmarket economy country entity is selected for examination.[66]

As explained above, the provisions in the Act that address the all-others rate calculation apply only to CVD and market economy country AD investigations. However, Commerce has a long-standing practice of looking to the all-others provision in the Act for guidance in determining a rate to apply to respondents that have not been individually examined in nonmarket economy country AD proceedings, market economy country AD administrative reviews, and CVD administrative reviews. Specifically, in nonmarket economy country AD investigations and administrative reviews, Commerce has taken guidance from the all-others rate provision to calculate a rate for non-selected companies who have satisfied Commerce's separate rate requirements but have not been individually investigated or examined during a POI or POR because, like market economy exporters or producers subject to an all-others rate, these companies will not be individually-examined during the relevant period of examination.[67] In other words, a company that demonstrates its entitlement to separate rate status in a nonmarket economy country AD investigation or review receives either an individual rate (as a mandatory or voluntary respondent) or a separate rate (if not selected for individual examination) based on a

[55] *See MacLean-Fogg Co.* v. *United States,* 100 F. Supp. 3d 1349, 1360–61 (CIT 2015) (recognizing that Commerce's practice ''is to take both averages and compare each to the actual weighted-average (using BPI available to the agency), in order to arrive at the nearest approximation of the all-others rate contemplated by'' the statute.) (*MacLean-Fogg Co.*).

[56] *Id.; see, e.g., Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011,* 79 FR 634 (January 2, 2014), and accompanying IDM (*Aluminum Extrusions from the People's Republic of China; 2010 and 2011* IDM) at Comment 3; and *Certain Frozen Warmwater Shrimp from India: Preliminary Countervailing Duty Determination,* 78 FR 33344 (June 4, 2013), and accompanying PDM, unchanged in *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination,* 78 FR 50385 (August 19, 2013).

[57] *See MacLean-Fogg Co.,* 100 F. Supp. 3d at 1360–61.

[58] *Id.*

[59] *Id.*

[60] Sections 705(c)(5)(A)(ii) and 735(c)(5)(A)(ii) of the Act.

[61] *Id.*

[62] *See* SAA at 873.

[63] *Id.*

[64] *See, e.g., 1,1,1,2-Tetrafluroethane from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 79 FR 62597 (October 20, 2014), and accompanying IDM at Comment 1.

[65] *See Thuan An Prod. Trading & Serv. Co.* v. *United States,* 348 F. Supp. 3d 1340, 1349 (CIT 2018) (explaining that Commerce should have instead advanced the rationale ''that the {nonmarket economy} entity is an individual entity, and therefore {} should be considered an individually investigated rate,'' rather than attempting to distinguish an {nonmarket economy} entity rate from an individually investigated rate and the all-others rate).

[66] *See, e.g., Aluminum Extrusions from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 78784 (December 31, 2014), and accompanying IDM at Comment 3.

[67] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010–2011,* 78 FR 35245, (June 12, 2013), and accompanying IDM at Comment 4 (citing *Amanda Foods (Vietnam) Ltd.* v. *United States,* 647 F. Supp. 2d 1368, 1379 (CIT 2009) (''To determine the dumping margin for non-mandatory respondents in {nonmarket economy} cases (that is, to determine the 'separate rates' margin), Commerce normally relies on the 'all others rate' provision of {the statute}.''). Commerce is now proposing to add a new regulation, § 351.108, which sets forth the separate rates requirements in this Proposed Rule.

weighted-average of the rates calculated for the individually investigated or examined respondents.[68]

Similarly, in AD administrative reviews of market economy countries and CVD reviews, Commerce will normally apply the weighted-average margin or rate of the individually examined respondents to those exporters or producers not selected for individual examination, despite a request for individual review, because, like market economy exporters or producers subject to an all-others rate, those non-selected exporters or producers will not be individually examined during the relevant POR.[69]

Proposed § 351.109(g) would codify Commerce's practice of determining a dumping margin or countervailable subsidy rate to apply to respondents not individually investigated or examined under each of those scenarios, and would provide, in particular, that in each of these investigations and reviews, Commerce may use a simple average instead of a weighted-average in its calculations if the use of a weighted-average margin or rate would result in the release of one exporter's or producers' business proprietary information to another.[70]

Lastly, proposed § 351.109(h) covers the selection of voluntary respondents. Under section 782(a) of the Act, even when Commerce limits the number of respondents selected as mandatory respondents, an exporter or producer may still obtain its own margin or rate as a voluntary respondent if its voluntary respondent submissions are timely and the number of exporters or producers subject to an investigation or review is not so large that any additional individual examination of such exporters or producers would be unduly burdensome for Commerce and inhibit the timely completion of the investigation or review.[71] Although current § 351.204(d) references how a firm may request voluntary respondent status under section 782(a) of the Act, the regulation does not address the order in which a voluntary respondent may be selected or the filing deadlines applicable to voluntary respondents. Accordingly, in transferring the current voluntary respondent provisions from § 351.204(d) to proposed § 351.109(h), Commerce has proposed to add additional provisions covering voluntary respondents.

Specifically, as proposed, current § 351.204(d)(1)–(3) would be moved to new § 351.109(h)(1), (2) and (3)(i). In addition, Commerce has added two new provisions. First, § 351.109(h)(3)(ii) states that if more than one exporter or producer seeks voluntary respondent treatment, and Commerce determines to examine one or more voluntary respondents individually, it will select voluntary respondents based on the chronological order in which the requests were filed correctly on the record.[72] This approach is consistent with Commerce's current voluntary respondent selection policy.[73]

In addition, Commerce proposes adding § 351.109(h)(4), which addresses the timing of voluntary respondent submissions. The provision would explain that the deadlines for voluntary respondent submissions would generally be the same as deadlines for submissions by individually investigated respondents. Furthermore, it would provide that if there are two or more individually investigated respondents with different deadlines for a submission, such as when one gets an extension of time which is longer than the extension of time granted to another (or none at all), then the voluntary respondent will normally be required to file its submission to Commerce by the earliest deadline required of the respondents selected for individual examination.

6. Revising References to Persons Examined, Treatment of Voluntary Respondents, and Exclusion From AD and CVD Orders—§ 351.204

Section 351.204 applies to certain general procedures and policies in an investigation once Commerce determines that a petition is sufficient under § 351.203. The current version includes paragraphs covering the period of investigation, § 351.204(b); the selection of persons to be examined, § 351.204(c); the treatment of voluntary respondents not selected for individual examination, § 351.204(d); and the exclusion of certain exporters and producers from an AD or CVD order, § 351.204(e).

Commerce proposes revising § 351.204 in accordance with both its proposed revisions of the cash deposit regulation, § 351.107, and the creation of a new respondent selection and all-others regulation, § 351.109, as discussed in greater detail elsewhere in this Proposed Rule.

Revising and simplifying § 351.204 is the logical outgrowth of the proposed revisions to part 351. Commerce may limit its examination of potential respondents not only in investigations, but in administrative reviews as well. Accordingly, it is reasonable to have the respondent selection provision appear in a regulation that applies to administrative reviews as well as investigations. Accordingly, Commerce proposes moving the parts of current § 351.204(c) that apply to both investigations and administrative reviews, including the waiver provision and the statutory reference to a single country-wide subsidy rate, to new § 351.109. Commerce proposes to retain language in current § 351.204(c) that applies only to investigations, while adding new language in that provision that references the more general respondent selection provision,

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[68] *See Viet I-Mei Frozen Foods Co.* v. *United States,* 839 F.3d 1099, 1102 (Fed. Cir. 2016) (affirming Commerce's practice of establishing differing treatment between the nonmarket economy entity rate and the separate rate respondents.); *see also Albemarle Corp. & Subsidiaries* v. *United States,* 821 F.3d 1345, 1349 (Fed. Cir. 2016) (explaining that when all individually examined exporters are assigned *de minimis* margins or countervailable rates, the ''expected method'' is for Commerce to assign a separate rate by taking the average of the de minimis margins or countervailable subsidy rates assigned to the individually examined respondents).

[69] *See, e.g., Stainless Steel Bar from India: Final Results of Administrative Review of the Antidumping Duty Order; 2017– 2018,* 84 FR 56179, (October 21, 2019), and accompanying IDM at Comment 7 (''Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for companies that were not selected for individual review in an administrative review.''); *see also Circular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review and Rescission of Countervailing Duty Administrative Review, in Part; Calendar Year 2017,* 84 FR 56173 (October 21, 2019), and accompanying IDM at 5 (explaining Commerce's application of the all-others rate in a CVD context).

[70] *See, e.g., Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011* IDM at Comment 3.

[71] *See* sections 782(a)(1)(A) and (B) of the Act; *see also* SAA at 843 (''Commerce may decline to analyze voluntary responses because it would be unduly burdensome and would preclude the completion of timely investigations or reviews.''); *and Grobest & I-Mei Indus. (Vietnam) Co.* v. *United States,* 853 F. Supp. 2d 1352, 1365 (CIT 2012) (citing *Longkou Haimeng Machinery Co., Ltd.* v. *United States*, 581 F. Supp. 2d 1344, 1353 (CIT 2012) (''When Commerce can show that the burden of reviewing a voluntary respondent would exceed that presented in the typical antidumping or countervailing duty review, the court will not second guess Commerce's decision on how to allocate its resources.'') (*Longkou Haimeng Machinery*)) *Grobest & I-Mei Indus. (Vietnam*).

[72] If a voluntary respondent request is submitted on the record but is later determined to have been submitted incorrectly, then this provision would not apply to that exporter or producer and Commerce would select the next exporter or producer as a voluntary respondent which filed its voluntary respondent request correctly on the record.

[73] *See, e.g.,* Commerce Memorandum, ''Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada: Respondent Selection,'' dated April 26, 2022, (ACCESS Barcode 4235480–01), at 8–10 (''Commerce will select voluntary respondents based on the order in which the requests are received.'').

§ 351.109(c). Commerce also proposes to revise § 351.213(f) pertaining to administrative reviews to reflect similar respondent selection language for that segment of an AD or CVD proceeding.

Second, the same issue applies to the selection of voluntary respondents, pursuant to section 782(a) of the Act: Commerce may select voluntary respondents in both investigations and administrative reviews. Accordingly, Commerce proposes moving the general voluntary respondent selection provision from current § 351.204(d) to new § 351.109(h). Likewise, Commerce proposes to add a sentence to § 351.204(c) that references new § 351.109(h) and states that Commerce may determine to examine voluntary respondents in investigations. Similar language appears in revised § 351.213(f) to indicate that voluntary respondents may be selected in administrative reviews.

Third, with the revision of the cash deposit regulation, § 351.107, Commerce concludes that it would be logical to also revise and move current §§ 351.204(e)(1) through (3) to that regulation. Commerce proposes language in new § 351.107(c)(3) to address scenarios in which Commerce would apply a producer/exporter cash deposit combination or combinations in excluding producers and exporters from AD or CVD investigations and orders as currently addressed in § 351.204(e)(1) through (3)).

With the changes being proposed to current § 351.204(d) and (e), Commerce therefore proposes renumbering § 351.204(e)(4) to § 351.204(d), retitling the subsection, ''Requests for exclusions from countervailing duty orders based on investigations conducted on an aggregate basis'' and removing § 351.204(e) entirely.

Finally, with these modifications to § 351.204(c) and (d), Commerce also proposes updating the heading of the regulation and updating the introductory paragraph, § 351.204(a), to reflect those changes. As proposed, the new heading would be ''Period of investigation; requests for exclusions from countervailing duty orders based on investigations conducted on an aggregate basis.'' Revised paragraph (a), as proposed, would reference the rules regarding the period of investigation and exclusion requests for countervailing duty investigations conducted on an aggregate basis.

7. Clarifying That Assessment Rates May Be Calculated on an Ad Valorem or a Per-Unit Basis—§ 351.212(b)(ii)

Section 731 of the Act directs Commerce to impose duties on imported merchandise ''that is being, or likely to be, sold in the United States at less than fair value.'' Section 751(a)(2)(C) of the Act states that an AD margin ''shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for {cash} deposits of estimated duties.'' The cash deposit rate is based on an estimated AD rate and applied to future entries, [74] whereas the assessment rate is based on the final, accurate AD margin for the relevant period and is applied to entries made during the period covered by an administrative review.[75]

The Act, however, does not require any particular method for calculating an assessment rate.[76] Commerce acknowledged this discretion in the *1997 Final Rule,* stating that ''neither the Act nor the AD Agreement specifies whether sales or entries are to be reviewed, nor do they specify how {Commerce} must calculate the amount of duties to be assessed.'' [77] In calculating an assessment rate, the Federal Circuit in *Torrington* held that the Act simply requires that the difference between the foreign market value and United States price serve as the basis for assessed duties.[78]

Commerce's regulations codify its assessment calculation methodology. Currently, the regulation under § 351.212(b) broadly states that ''the Secretary will normally calculate an assessment rate for each importer of subject merchandise covered by the review.'' [79] The regulations explain that the assessment rate is determined by ''dividing the dumping margin found on the subject merchandise examined by the entered value of such merchandise for normal customs duty purposes.'' [80] This assessment rate method is also known as an *ad valorem,* or a percentage of value, basis.

Commerce also calculates an assessment rate on a per-unit basis, however, when an *ad valorem* basis will result in an under-collection of duties, such as when entered sales values are unknown, undervalued, systematically understated, or otherwise unreliable.[81] As explained above with respect to the proposed revised cash deposit regulation, § 351.107(c), units upon which an assessment rate may be calculated include, but are not limited to, weight, length, volume, packaging (such as the type and size of packaging), and individual units of the product itself. The CIT has affirmed this practice, holding that ''although Commerce normally calculates assessment rates on an *ad valorem* basis, it has discretion to revise the assessment methodology and adopt a reasonable method for ensuring an accurate collection of total duties due.'' [82]

Commerce is therefore proposing dividing current § 351.212(b) into paragraphs (i) and (ii), the first paragraph applicable to assessment rates determined on an *ad valorem* basis and the second applicable to assessment rates determined on a per-unit basis.

8. Recognizing That Commerce May Select Respondents and Voluntary Respondents Practice in Administrative Reviews—§ 351.213(f)

As discussed above, Commerce is proposing revisions to its regulations in § 351.109 to reflect its practice of limiting the number of exporters or producers examined when it is not practicable to examine each known exporter producer in both investigations and administrative reviews. Furthermore, Commerce is also proposing moving and revising provisions covering voluntary respondent selection from § 351.204(d), which covers only investigations, to § 351.109(h), because Commerce may select voluntary respondents in both investigations and administrative reviews, as affirmed by the CIT.[83]

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[74] *See* section 773(d)(1)(B); *see also Koyo Seiko Co.* v. *United States,* 258 F.3d 1340, 1342–44 (Fed. Cir. 2001) (*Koyo Seiko Co.*).

[75] *See* section 751(a)(2); *see also Koyo Seiko Co.,* 258 F.3d at 1347–48.

[76] *See* section 751(a)(2) of the Act.

[77] *1997 Final Rule,* 62 FR at 27314 (internal citations omitted).

[78] *Torrington Co.* v. *United States,* 44 F.3d 1572, 1578 (Fed. Cir. 1995); *see also Koyo Seiko Co.,* 258 F.3d at 1346.

[79] 19 CFR § 351.212(b).

[80] *Id.*

[81] *See Certain Activated Carbon from the People's Republic of China* IDM at 34 (stating ''the regulation, however, does not proscribe [Commerce] from resorting to other methods of calculating and assigning assessment and cash deposit rates, and the agency does so in certain circumstances . . . {Commerce} changed the cash deposit and assessment methodology from an ad valorem to a per-unit basis because the application of an ad valorem rate based on net U.S. price would yield an under-collection of duties due to Jacobi's undervaluing of its United States sales.''); *see also 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China* IDM at Comment 5; *Wooden Bedroom Furniture from the People's Republic of China* IDM at Comment 17; and *Honey from the People's Republic of China* IDM at Comment 7.

[82] *See Wuhan Bee,* Slip Op. 2008–61 at 12.

[83] *See Qingdao Qihang Tyre Co.* v. *United States,* 308 F. Supp. 3d 1329, 1363 (CIT 2018) (affirming Commerce's determination in an administrative review to individually examine two respondents based on the statutory authority to examine the ''exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.''); *see also Grobest & I-Mei Indus. (Vietnam),* 853 F. Supp. 2d at 1365 (citing *Longkou*

Continued

In proposed and updated § 351.204(c), Commerce would acknowledge that in investigations, specifically, the agency may limit the number of exporters or producers examined, and, in accordance with section 782(a) of the Act, Commerce may also determine to examine voluntary respondents in investigations. Likewise, in § 351.214(f) similar proposed language would recognize that in administrative reviews, Commerce may both limit the number of exporters or producers examined and select voluntary respondents. The language proposed for both provisions references the criteria and procedures set forth in § 351.109(c), to limit selection of exporters and producers, and § 351.109(h), to select voluntary respondents, in investigations and administrative reviews.

As mentioned above, the current regulation does not address Commerce's respondent selection process during administrative reviews and the practicality of individually examining multiple respondents in an administrative review when faced with a large number of exporters and producers. Accordingly, the proposed changes to § 351.109 and § 351.213(f) would provide clarity on that issue. Furthermore, although current § 351.213(f) allows for the examination of voluntary respondents in administrative reviews, the reference to § 351.109(h) in the proposed revision would make the regulation consistent with the other aforementioned proposed changes to the regulations.

9. Revising Header to Section 214 Identify Expedited Reviews Separately From New Shipper Reviews—§ 351.214

Commerce proposes modifying the heading of § 351.214, which currently reads ''New shipper reviews under section 751(a)(2)(B) of the Act,'' by adding to it the phrase ''and expedited reviews in countervailing duty proceedings.'' Section 751(a)(2)(B) of the Act provides Commerce the authority to determine dumping margins and countervailing duty rates for exporters and producers that did not export subject merchandise to the United States during the period of investigation, referred to as ''new shipper reviews,'' and § 351.214 contains several provisions with respect to the conduct and administration of new shipper reviews. However, current paragraph (l) of § 351.214 does not relate to new shipper reviews but instead provides procedures for conducting expedited reviews of exporters not selected for individual examination in CVD investigations. Expedited reviews in CVD investigations are not derived from, or related to, section 751(a)(2)(B) of the Act. Accordingly, Commerce has determined that the revision of the section heading to reflect that a proceeding separate from new shipper reviews is also covered by § 351.214 would provide clarity.

In addition, the Federal Circuit recently held that the ''individualized-determination provisions'' of section 777A(e) of the Act, along with the ''regulatory-implementation authority'' of section 103(a) of the URAA, explicitly provide Commerce with the authority to promulgate § 351.214(l).[84] The Court held that this regulatory provision ''provides one procedure for giving effect to the primary policy of providing individual-company rate determinations'' and that the ''SAA itself makes the connection between the expedited-review process at issue'' and the addition of section 777A(e) to the Act in the URAA.[85] Commerce proposes modifying the heading to § 351.214 to make it consistent with the holding in *COALITION* v. *U.S.*.

10. Revising Requirements for Submissions of Rebuttal Factual Information; Modifying Deadlines Concerning the Submission of Information Pertaining to Factors of Production and Benchmarks for Measuring the Adequacy of Remuneration—§ 301(b)(2), (c)(3)(i) and (c)(3)(ii)

Commerce proposes to revise one of its reporting regulations, § 351.301(b)(2), to require greater detail from interested parties. Specifically, § 351.301(b)(2), explains that if factual information is being provided to rebut, clarify, or correct factual information on the record, the submitter must identify the information already on the record that is being rebutted, clarified, or corrected. Current § 351.301(b)(2) does not, however, instruct the submitter to summarize the information being provided under this paragraph or describe how that new factual information rebuts the information already on the record.[86] This omission creates a burden on both Commerce and interested parties to understand why the information being provided under this paragraph is being submitted and how it is particularly relevant to the information already on the record.

Accordingly, to provide clarity to all parties regarding the submission of factual information being provided to rebut, clarify, or correct information already on the record, Commerce is proposing to revise § 351.301(b)(2) to specify that the submitter must also provide a narrative summary explaining how the specific factual information being provided rebuts, clarifies, or corrects the identified factual information already on the record.

In addition, Commerce is proposing an additional modification to its reporting regulation, § 351.301, to update deadlines for filing certain information on the record. Current § 351.301(c)(3)(i) and (ii) establish time limits for interested parties to submit factual information to value factors of production under § 351.408(c) or to measure the adequacy of remuneration under § 351.511(a)(2) in AD and CVD investigations, administrative reviews, new shipper reviews, and changed circumstances reviews.

Currently, the submissions are due no later than 30 days before the scheduled dates of preliminary determinations and results of review. However, these submissions sometimes contain hundreds, if not thousands, of pages of information that Commerce needs to analyze in a short amount of time prior to issuing a preliminary determination or the preliminary results. The large volume of information often contained in these submissions makes it difficult for Commerce to meet its statutory deadlines to determine the appropriate surrogate values or benchmarks.

In addition, since the 30-day deadlines were codified, Commerce has experienced a large increase in AD and CVD proceedings and orders which it must administer. In order to effectively administer and enforce the AD and CVD

Haimeng Machinery Co., 581 F. Supp. 2d at 1353 (''When Commerce can show that the burden of reviewing a voluntary respondent would exceed that presented in the typical antidumping or countervailing duty review, the court will not second guess Commerce's decision on how to allocate its resources.'').

[84] *Comm. Overseeing Action for Lumber Int'l Trade Investigations or Negots.* v. *United States,* 66 F.4th 968, 977 (Fed. Cir. 2023) (*COALITION* v. *U.S.*).

[85] *Id.* (explaining that ''{u}nder a heading, 'Company-Specific Subsidy Rates and Expedited Reviews,' the SAA states: 'Article 19.3 of the Subsidies Agreement provides that any exporter whose exports are subject to a CVD order, but which was not actually investigated for reasons other than a refusal to cooperate, shall be entitled to an expedited review to establish an individual CVD rate for that exporter.'" (citing SAA at 941). The Federal Circuit further noted that the SAA also states that ''{s}everal changes must be made to the [Tariff] Act to implement the requirements of Article 19.3'' and that one subsection of the SAA explained that the URAA ''eliminates the presumption in favor of a single country-wide CVD rate and amends section 777A of the Act to establish a general rule in favor of individual CVD rates for each exporter or producer individually investigated.'' (citing SAA at 941)).

[86] *See Saha Thai Steel Pipe Pub. Co. Ltd.* v. *United States,* 663 F. Supp. 3d 1356, 1373 (CIT 2023).

laws, Commerce therefore proposes modifying these time limits to allow Commerce additional time to more fully analyze these voluminous submissions for purposes of its preliminary decisions.

Specifically, Commerce proposes revising § 351.301(c)(3)(i) to create both a subparagraph (A) and subparagraph (B) covering investigations. Under the proposal, Commerce would revise the time limit for parties to submit factual information to value factors of production under § 351.408(c) in AD investigations to no later than 60 days before the scheduled date of the preliminary determination and proposes revising § 351.301(c)(3)(i)(B) to increase the time limit for parties to submit factual information to measure the adequacy of remuneration under § 351.511(a)(2) in CVD investigations to no later than 45 days before the scheduled date of the preliminary determination. Commerce recognizes that the statutory deadline for the issuance of a preliminary determination in a CVD investigation [87] is shorter than the preliminary determination in an AD investigation,[88] which is the reason the agency is proposing a change of 15 fewer days in the time limit for CVD investigations.

Furthermore, for administrative reviews, new shipper reviews, and changed circumstances reviews, Commerce proposes revising § 351.301(c)(3)(ii) to require parties to submit factual information to value factors of production under § 351.408(c) or to measure the adequacy of remuneration under § 351.511(a)(2) no later than 60 days before the scheduled date of the preliminary results of review.

Commerce recognizes that in requiring such factual information to be submitted earlier in the proceeding, interested parties will have a shorter period of time in which to supply potential surrogate and benchmark information in AD and CVD proceedings. However, Commerce believes that the proposed deadlines will still be sufficient for interested parties to gather, prepare and submit that information, while also improving Commerce's ability to reach accurate and appropriate preliminary determinations in its proceedings.

11. Allowing the Provision of Business Proprietary Information to CBP Employees Investigating Negligence, Gross Negligence, or Fraud—§ 351.306(a)(3)

As amended in 2015, section 777(b)(1)(A)(ii) of the Act states that Commerce may disclose proprietary information ''to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding negligence, gross negligence or fraud under this title.'' Current § 351.306(a)(3) states that Commerce may disclose business proprietary information to ''an employee of U.S. Customs and Border Protection'' involved in conducting ''a fraud investigation.'' However, the Act now includes ''negligence'' and ''gross negligence'' investigations.[89]

Accordingly, Commerce is proposing amendments to § 351.306(a)(3) to expand the covered investigations to negligence and gross negligence investigations as well as fraud investigations. These proposed changes would bring § 351.306(a)(3) into conformity with section 777(b)(1)(A)(ii) of the Act as amended in 2015.

12. Updating the Facts Available Regulations, Including Adding Language From the Trade Preferences Extension Act of 2015—§ 351.308(g), (h), and (i)

On June 29, 2015, the Trade Preferences Extension Act of 2015 (TPEA) was signed into law. Among other changes, TPEA amended provisions of section 776 of the Act,[90] which governs Commerce's authority to rely on facts otherwise available in conducting AD and CVD proceedings.

Current § 351.308 addresses Commerce's practices and procedures arising out of section 776 of the Act, but there are certain aspects of Commerce's practice, and sections of the 2015 amendments, that are not currently reflected in Commerce's regulations.

First, when applying facts available pursuant to section 776(a) of the Act, there are cases in which Commerce determines that information is missing or unreliable to the extent that the application of total facts available is warranted to all of a exporter's or producer's calculations and should be applied in determining the antidumping margin or countervailable subsidy rate as a whole.[91] However, in other cases, Commerce may determine that only certain information is missing or unreliable and, given the facts on the record, it is appropriate to apply only partial facts available to a portion of its antidumping or countervailing duty analysis and calculations for a particular exporter or producer.

The CIT and the Federal Circuit have upheld Commerce's practice to apply ''partial'' and ''total'' facts available under section 776 of the Act.[92] While the Act does not explicitly reference total or partial facts available,[93] courts have recognized and affirmed Commerce's authority to use partial facts available when there are discrete gaps in the information and total facts available when none of a party's information is available, useable, or reliable.[94] Accordingly, Commerce proposes adding § 351.308(g) to codify Commerce's long-standing practice to apply either partial or total facts available in implementing sections 776(a) and (b) of the Act.

In addition, Commerce also proposes adding paragraphs (h) and (i) to § 351.308 to reflect changes incorporated into section 776 of the Act by the TPEA. The TPEA amended section 776(c) of the Act to provide that when Commerce relies on information obtained in the course of an AD or CVD investigation or review pursuant to subsection (c)(1), Commerce is not required to corroborate any dumping margin or countervailing duty applied in a separate segment of the same proceeding pursuant to subsection (c)(2).[95] Accordingly, Commerce proposes adding paragraph (h) to reflect that Commerce is not required to conduct a corroboration analysis when applying margins or rates derived from separate segments of the same proceeding pursuant to section 776(c)(2) of the Act.

Furthermore, the TPEA created section 776(d) of the Act, which

[87] *See* section 703(b)(1) (requiring Commerce to issue a preliminary CVD determination within 65 days after the date of initiation). *See also* § 351.205(b)(1).

[88] *See* section 733(b)(1)(A) (requiring Commerce to issue a preliminary AD determination within 140 days after the date of initiation). *See also* 351.205(b)(1).

[89] *See* section 413(a) of the Trade Facilitation and Trade Enforcement Act of 2015 (Pub. L. 114–125), 130 Stat. 122 (2016).

[90] *See* TPEA of 2015, Public Law 114–27, 129 Stat. 362, 384 (2015), § 502, codified at 19 U.S.C. 1677(e).

[91] *See, e.g., Fine Denier Polyester Staple Fiber from India: Final Results of Antidumping Duty Administrative Review, 2018–2019,* 86 FR 29249 (June 1, 2021), and accompanying IDM at Comment 1.

[92] *See, e.g., Mukand, Ltd.* v. *United States,* 767 F.3d 1300, 1308 (Fed. Cir. 2014) (*Mukand II*) (affirming Commerce's application of total adverse facts available when respondent's sales and cost data was unusable), *affirming* Slip Op. 13–00041 (CIT March 25, 2013); *Kawasaki Steel Corp.* v. *United States,* 110 F. Supp. 2d 1029, 1043 (CIT 2000) (affirming Commerce's application of partial adverse facts available with respect to certain information needed to calculate respondent's constructed export price).

[93] *See Mukand II,* Slip Op. 13–00041 (CIT March 25, 2013), *aff'd,* 767 F.3d 1300.

[94] *See id.*

[95] *See* section 776(c)(2) of the Act.

addresses Commerce's authority to select from among the facts otherwise available when applying an adverse inference.[96] Sections 776(d)(1)(A)(i) and (ii) of the Act provide that when applying an adverse inference in a CVD proceeding, Commerce may use a countervailable subsidy rate applied for the same or a similar program in a CVD proceeding involving the same country and if none exists, Commerce may use a countervailable subsidy rate for a subsidy program from a proceeding that Commerce considers reasonable. Furthermore, section 776(d)(1)(B) provides that when applying an adverse inference in AD proceedings, Commerce may use any dumping margin from any segment of the proceeding under the applicable antidumping order. In addition, when selecting from the subsidy rates or dumping margins specified in section 776(d)(1) of the Act, section 776(d)(2) of the Act authorizes Commerce to apply the highest rate or margin, based on the evaluation of the situation that resulted in Commerce applying an adverse inference.

Finally, sections 776(d)(3)(A) and (B) of the Act provide that when using an adverse inference in selecting among the facts otherwise available, Commerce is not required to estimate what the countervailable subsidy rate or dumping margin would have been if the interested party found to have failed to cooperate under section 776(b)(1) had cooperated nor to demonstrate that the countervailable subsidy rate or dumping margin reflects an alleged commercial reality of the interested party.

In light of these modifications made to section 776 of the Act in the TPEA, Commerce proposes adding § 351.308(i)(1), (2), and (3) to reflect the facts available language set forth in sections 776(d)(1), (2), and (3) of the Act.

13. Revising Case Brief and Rebuttal Brief Regulation To Include Executive Summaries—§ 351.309(c)(2) and (d)(2)

Current § 351.309(c)(2) and (d)(2) of Commerce's regulations address the filing requirements of case briefs and rebuttal briefs, including an ''encouragement'' by the agency that parties ''provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.'' Such summaries were intended to enable the reader to quickly ascertain the main arguments presented by interested parties. However, since that language was codified in the regulation, Commerce has found that many such summaries submitted in briefs and rebuttal briefs have been so general as to be of limited use to interested parties and Commerce officials. Furthermore, the absence of shorter and more succinct summaries for each of the issues raised in interested parties' case and rebuttal briefs has resulted in Commerce officials spending considerable time paraphrasing interested parties' briefs and arguments in shorter summation for use in final decision memoranda.

Therefore, starting in November 2023, Commerce revised the instructions it provided to interested parties in the ''Public Comment'' section of its notices of preliminary determination and preliminary results [97] to request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in those submissions, defining an ''issue'' as an argument that Commerce would normally address in comments in its final issues and decision memoranda. Furthermore, since November 2023, Commerce requested that interested parties limit their executive summary of each issue in briefs and rebuttal briefs to no more than 450 words (not including citations). Commerce explained in its preliminary notices that it has requested that parties submit such summaries so that those summaries can appear in Commerce's issues and decision memoranda.[98] This approach relieves the agency of the effort and time it takes to paraphrase interested parties' arguments and also helps assure interested parties that Commerce is reflecting their arguments accurately in the agency's issues and decision memoranda.

Commerce explained in those notices that it was, and is, Commerce's intent to use the executive summaries as the basis of the comment summaries included in the final decision memoranda that will accompany the final results of review.[99] However, there may be instances in which Commerce will need to revise an interested party's executive summary for purposes of context, simplicity, or clarity.[100]

Consistent with that new policy, Commerce is proposing revising § 351.309(c)(2) and (d)(2) to request the inclusion of an executive summary for each argument raised in the brief and rebuttal brief. The regulation provides that executive summaries should be no more than 450 words in length, not counting supporting citations. With respect to supporting citations, the new regulatory language is clear that, in general, interested parties may include all relevant citations, including prior Commerce decisions and Federal Court holdings, without concern about the 450-word length.

In the past, Commerce has ''encouraged'' interested parties to include a general summary in their case and rebuttal brief. Commerce proposes replacing that term with the term ''request'' and eliminating the reference to a general summary. The revised provision would request that parties supply a table of contents listing each issue; a table of authorities, include statutes, regulations, administrative cases, dispute panel decisions, and court holdings cited; and an executive summary for each argument raised in the brief. The change from ''encouraged'' to ''request'' is intentional, as Commerce's ability to effectively administer that AD and CVD laws is improved when parties submit tables of contents, tables of authorities, and an executive summary for each argument raised in the brief.[101] In addition, the inclusion of a table of contents is consistent with Commerce's practice, and the inclusion on the list of administrative cases and dispute panel decisions to be cited in a table of authorities is intended to provide additional clarity, as those sources are frequently cited in briefs and rebuttal briefs.

Finally, Commerce has proposed removing from its list of requested (formerly encouraged) information the five-page summaries, for the reasons explained above. Commerce does not find that five-page summaries are generally helpful, although Commerce

[96] *Id.*

[97] *See, e.g., Thermal Paper from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review, 2021–2022,* 88 FR 83384, 83386 (November 29, 2023); *Refillable Stainless Steel Kegs from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Revie,; 2021–2022,* 88 FR 85230, 85231 (December 7, 2023); and *Stilbenic Optical Brightening Agents from Taiwan: Preliminary Results of Antidumping Duty Administrative Review, 2022,* 89 FR 7361, 7362 (February 2, 2024) (*Brightening Agents from Taiwan Preliminary Results*).

[98] *See, e.g., Brightening Agents from Taiwan Preliminary Results,* 89 FR at 7362.

[99] *See id.,* 89 FR at 7362.

[100] For example, Commerce may determine to remove or revise lengthy footnotes when it places executive summaries in its issues and decision memoranda if it determines that lengthy and argumentative footnotes were an attempt to avoid the word length restrictions for executive summaries requested in the regulation.

[101] For purposes of this Proposed Rule, Commerce is emphasizing that if interested parties fail to provide the succinct 450-word public executive summaries, pursuant to this revised provision, Commerce may request that those parties resubmit their entire brief or rebuttal brief with an executive summary.

will not prohibit the submission of such summaries if interested parties wish to continue to supply them.

14. Revising To Include Practice of Collapsing Affiliated Producers and Non-Producers—§ 351.401(f)

When affiliated producers share ownership, management, or have intertwined operations, there is a significant potential for the manipulation of the prices or production of the subject merchandise. Commerce has a longstanding and court-affirmed practice of ''collapsing'' certain affiliated entities and treating them as a single entity for purposes of its AD calculations.[102] As currently written, § 351.401(f)(1) codifies Commerce's practice of collapsing affiliated producers who ''have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities'' where ''there is a significant potential for the manipulation of price or production.'' Section 351.401 (f)(2) identifies the factors Commerce may consider in determining whether there is significant potential for the manipulation of price or production.

By collapsing affiliated producers and calculating a single weighted-average dumping margin for the combined entity, the current regulation discourages producers subject to antidumping duties from shifting their production or sales to affiliated producers to evade those duties. [103]

However, affiliated non-producers such as exporters, importers, and producers can also manipulate and influence prices and costs through their mutual relationships.[104] Accordingly, to prevent manipulation of the prices and costs used in its dumping analysis, and prevent the evasion of duties, Commerce has in several AD proceedings collapsed non-producers with both producers and non-producers, and the CIT has affirmed Commerce's authority to do so.[105] Although the Act does not expressly address collapsing, the CIT has held that Commerce's collapsing practice, as applied to both affiliated producers and non-producers, effectuates the basic purpose of the Act: to calculate accurate dumping margins and to prevent the evasion of duties.[106]

As such, Commerce proposes revising § 351.401(f) to explicitly address the ability of the agency to collapse producers and non-producers when it determines that there is a significant potential for the manipulation of prices or production between two or more affiliated parties.[107]

In practice, Commerce has found the (f)(2) factors in the current regulation instructive in determining whether to collapse non-producer affiliated parties. For example, applying the factors of § 351.401(f) relevant to non-producers, Commerce has collapsed producers with affiliated resellers and exporters.[108] Accordingly, Commerce proposes modifying § 351.401(f) to reflect Commerce's longstanding practice of collapsing affiliated parties, rather than only affiliated producers, by changing references to ''affiliated producers'' to ''affiliated parties.'' Further, Commerce proposes moving discussion of whether affiliated parties have or will have access to production facilities for similar or identical products from paragraph (f)(1) to a newly created paragraph (f)(3). If applicable, paragraph (f)(3) would require Commerce to consider if any of those facilities would require substantial retooling in order to restructure manufacturing priorities. This modification would ensure that § 351.401(f) centers Commerce's collapsing analysis on whether there is a significant potential for manipulation of prices, production, or other commercial activities—a factor relevant to producers and non-producers alike.[109] Finally, paragraph (f)(2), with a few minor modifications, would continue to describe the factors Commerce may consider in determining whether there is a significant potential for manipulation.

15. Addressing the Submission of Multinational Corporation Provision Allegations and Clarification That the Provision Does Not Apply to Nonmarket Economy Countries—§ 351.404(g)

Section 773(d) of the Act enumerates the factors necessary for Commerce to determine whether to apply the special rule for certain multinational corporations in determining normal value for purposes of its AD calculations. Current § 351.301(c) sets forth the time limits for submissions of various allegations, arguments, and factual information relevant to that determination, but it does not refer to allegations that the special rule for certain multinational corporations should be applied given the facts on the record. In the past, Commerce has articulated in its communications to outside parties that the deadlines of § 351.301(c)(2)(i) should apply to such allegations,[110] and Commerce is proposing to codify that understanding in new § 351.404(g)(1).

Under section 773(d) of the Act, the special rule for certain multinational corporations requires a determination concerning market viability and the basis for determining normal value. Current § 351.301(c)(2)(i) provides interested parties the deadline for submitting allegations regarding market viability in an antidumping investigation or administrative review. Proposed § 351.404(g)(1) would instruct interested parties to file multinational corporation provision allegations in accordance with the filing requirements set forth in § 351.301(c)(2)(i).

In addition, Commerce has previously determined that the special rule for certain multinational corporations does not apply when the non-exporting country at issue is a nonmarket economy [111] and, thus, normal value is

[102] *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil,* 69 FR 76910 (December 23, 2004), and accompanying IDM (*Shrimp from Brazil* IDM) at Comment 5; *see also Rebar Trade Action Coalition* v. *United States,* 398 F. Supp. 3d 1359, 1366–1371 (CIT 2019) (*Rebar Trade Action Coalition*); *Queen's Flowers de Colombia* v. *United States,* 981 F. Supp. 617, 622 (CIT 1997) (*Queen's Flowers*); and *Viraj Group.* v. *United States,* 476 F.3d 1349, 1355–58 (Fed. Cir. 2007).

[103] *See Rebar Trade Action Coalition,* 475 F. Supp. at 1368.

[104] *See Shrimp from Brazil* IDM at Comment 5.

[105] *See NACCO Materials Handling Group, Inc.* v. *United States,* 971 F. Supp. 586, 591–92 (CIT 1997) (*NAACO Materials*); *Queen's Flowers,* 981 F. Supp. at 617–622; *and Echjay Forgings,* 475 F. Supp. 3d. at 1360 (CIT 2020) (citing *Hontex Enterprises Inc. d/b/a Louisiana Packing Company* v. *United States of America,* 248 F. Supp. 2d. 1323 (CIT 2003)).

[106] *See Queen's Flowers,* 981 F. Supp. at 622.

[107] *See United States Steel Corp.* v. *United States,* 179 F. Supp. 3d 1114, 1135 (CIT 2016).

[108] *See Shrimp from Brazil* IDM at Comment 5; *see also Certain Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 33578, 33580–33581 (June 14, 2010), unchanged in *Certain Welded Carbon Steel Standard Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review,* 75 FR 69626 (November 15, 2010); and *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review,* 70 FR 54361 (September 14, 2005), and accompanying IDM at Comment 9.

[109] *See Shrimp from Brazil* IDM at Comment 5; *see also Rebar Trade Action Coalition,* 475 F. Supp. at 1367.

[110] *See* Commerce's Letter, ''Multinational Corporation Provision,'' dated April 9, 2021 (ACCESS barcode: 4108533–01) at 2 n. 9 (stating ''Commerce intends to clarify in its initiation notices for subsequent proceedings that the applicable deadline for all interested parties to file an MNC allegation is established by 19 CFR 351.301(c)(2)(i).'').

[111] *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 52065 (September 12, 2007) and accompanying IDM (Shrimp from Thailand IDM) at

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determined using a factors of production methodology in accordance with 773(c) of the Act.[112] This is because section 773(d)(2) of the Act requires that section 773(a)(1)(C) of the Act apply in order for Commerce to use the statutory factors to determine whether to apply the special rule for certain multinational corporations, and section 773(a)(1)(C) provides that Commerce will determine normal value using third country sales and not the factors of production methodology statutorily required for nonmarket economies. The Federal Circuit, in *Ad Hoc Shrimp Trade Comm,* affirmed Commerce's interpretation of section 773(d)(2) of the Act as reasonable and in accordance with law.[113]

Thus, consistent with Commerce's interpretation of the Act, as affirmed by the Federal Circuit, Commerce is proposing new § 351.404(g)(2) which would state clearly that the special rule for multinational corporations will not apply where the non-exporting country at issue is a nonmarket economy country and normal value is determined using a factors of production methodology.

Commerce believes that these two additions to the regulations will provide greater detail to the public with respect to the submission of allegations to which the special rule for multinational corporations would apply, as well as the application of the special rule itself.

16. Providing Criteria for Determining a Profit Rate Under the Constructed Value Profit Cap—§ 405(a) and (b)(3)

As set forth in § 351.405(a), pursuant to section 773(e) of the Act in certain circumstances Commerce may determine normal value by constructing a value based on the cost of manufacturing; selling, general and administrative expenses; and profit. In constructing such a value, the Act provides that Commerce should use the ''actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country.'' [114] However, there are times when the ''actual data are not available with respect'' to those production and sale amounts, and in those circumstances, section 773(e)(2)(B) of the Act establishes three alternative methods for calculating amounts for selling, general, and administrative expenses, and profits, in connection with the production and sale of a foreign like product, in those instances.[115] The Act provides Commerce with the discretion to select from any of the three alternative methods, depending on the information available on the record.[116]

One of those three options, described in section 773(e)(2)(B)(iii) of the Act, allows Commerce to use amounts incurred and realized for selling, general, and administrative expenses, and for profits based on ''any other reasonable method'' with one exception. The Act provides that ''the amount allowed for profit may not exceed the amount normally realized by exporters or producers'' other than the individually examined exporter or producer ''in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of productions as the subject merchandise.''

The SAA states that ''Commerce will develop this alternative through practice,'' [117] and with respect to the ''profit cap'' exception set forth in this provision,[118] Commerce has done just that for over two decades. It has been Commerce's practice in determining the amount of profit normally realized by exporters or producers in connection with the sale, for consumption in the foreign country, of merchandise that is in the general category as the subject merchandise for use in its constructed value calculations to consider four criteria: (1) the similarity of the potential surrogate companies' business operations and products to the respondent's business operations and products; (2) the extent to which the financial data of the surrogate company reflects sales in the home market and does not reflect sales to the United States; (3) the contemporaneity of the data to the period of investigation; and (4) the extent to which the customer base of the surrogate company and the respondent is similar.[119]

In elaborating the relevancy of each criterion, Commerce has explained that the greater the similarity in business operations, products, and customer base, the more likely that there is a greater correlation in the profit experience of the two companies.[120]

Concerning the extent to which U.S. sales are reflected in the surrogate's financial statements, because Commerce is typically comparing U.S. sales to a normal value from the home market or third country, Commerce has explained that it does not want to construct a normal value based on financial data that contains exclusively or predominantly U.S. sales.[121] Further, in accordance with section 773(e)(2)(B) of the Act generally, Commerce has explained that it seeks, to the extent possible, home market profit experience.[122]

Finally, with respect to the contemporaneity criteria, because markets change over time, Commerce has explained that the more current the data, the more reflective it believes that data would be of the market in which the respondent is operating.[123]

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37 (stating ''the legislative history suggests that Congress was primarily concerned with situations where the home market was not viable and yet a respondent's low priced exports to the United States market was supported by higher priced sales of its affiliate in a third country market. This legislative concern, however, does not appear to encompass respondents from {nonmarket economy} countries. In {nonmarket economy} cases, the Department disregards home market prices and the respondent's cost of production and calculates {normal value} on the reported factors of production.'' (internal citations omitted)); *see also Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 52049 (September 12, 2007), and accompanying IDM at Comment 12.

[112] In nonmarket economy cases, when there is ''likely price distortion due to state involvement'' and sales of merchandise do not reflect their fair value, Commerce is unable to determine normal value and must instead rely on a factors of production methodology in accordance with 773(c) of the Act. *See Ad Hoc Shrimp Trade Action Comm.* v. *United States,* 596 F.3d 1365, 1369–71 (Fed. Cir. 2010) (*Ad Hoc Shrimp Trade Comm.*).

[113] *See Ad Hoc Shrimp Trade Comm.* 596 F.3d at 1369–73.

[114] Section 773(e)(2)(A) of the Act.

[115] *See* SAA at 840 (''At the outset, it should be emphasized, consistent with the Antidumping Agreement, new section 773(e)(2)(B) does not establish a hierarchy or preference among these alternative methods. Further, no one approach is necessarily appropriate for use in all cases'').

[116] *Certain Steel Nails from the Republic of Korea: Final Determination of Sales at Less Than Fair Value,* 80 FR 28955 (May 20, 2015) (*Certain Steel Nails from Korea*), and accompanying IDM at Comment 4.

[117] SAA at 841.

[118] *Id.* (''The Administration also recognizes that where, due to the absence of data, Commerce cannot determine amounts for profit under alternatives (1) and (2) or a ''profit cap'' under alternative (3), it might have to apply alternative (3) on the basis of 'facts available.' This ensures that Commerce can use the alternative (3) when it cannot calculate the profit normally realized by other companies on sales of the same general category of products.'').

[119] *See Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Israel,* 66 FR 49349 (September 27, 2001), and accompanying IDM at Comment 8; *see also Notice of Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers from Malaysia,* 69 FR 20592 (April 16, 2004), and accompanying IDM at Comment 26.

[120] *See Notice of Final Determination of Sales at Not Less Than Fair Value: Certain Color Television Receivers from Malaysia,* 69 FR 20592 (April 16, 2004), and accompanying IDM at Comment 26.

[121] *Id.*

[122] *Id.*

[123] *Id.*

Commerce has considered those criteria in selecting the appropriate financial statements to determine constructed value profit under section 773(e)(2)(B)(iii) of the Act for many years.[124] Moreover, the Federal Circuit, in *Mid Continent Steel & Wire Inc.,* affirmed Commerce's framework, based on those four criteria, as a reasonable interpretation of section 773(e)(2)(B)(iii) of the Act.[125]

Accordingly, Commerce has determined that the public and the agency alike would benefit through the codification of this practice in its regulations. Therefore, Commerce is proposing a change to the last sentence of § 351.405(a) to indicate that the information that Commerce will consider in determining a constructed value and the addition of a new paragraph (3) to § 351.405(b), which would apply to determinations of ''profit and selling, general and administrative expenses'' to reflect the four criteria described above in selecting a value for CV profit under the ''profit cap'' exception set forth in section 773(e)(2)(B)(iii) of the Act.

17. Revising Criteria for Determining Economic Comparability in Calculating Normal Value From Nonmarket Economy Countries—§ 351.408(b)

Section 773(c)(2)(B) of the Act states that when Commerce is conducting an antidumping analysis of a nonmarket economy country, it will include consideration of the price of merchandise ''produced in one or more market economy countries that are at a level of economic development comparable to that of a nonmarket economy country.'' Furthermore, section 773(c)(4)(A) of the Act states that in valuing factors of production for a nonmarket economy country analysis, Commerce shall utilize, to the extent possible, ''the prices or costs of factors of production in one or more market economy countries that are—(A) at a level of economic development comparable to that of a nonmarket economy country.''

Current § 351.408(b) states that in determining whether a country is at a level of economic development comparable to the nonmarket economy under sections 773(c)(2)(B) and 773(c)(4)(A) of the Act, Commerce will ''place primary emphasis on *per capita* GDP as the measure of economic comparability.'' However, Commerce's general practice has been to use *per capita* GNI instead of *per capita* GDP as the measure of economic comparability [126] because ''while the two measures are very similar, *per capita* GNI is reported across almost all countries by an authoritative source (the World Bank).'' [127] Commerce's use of GNI has been recognized and affirmed as reasonable by the CIT as a measure to determine economic comparability in multiple holdings.[128]

Commerce is now proposing to update § 351.408(b) to reflect that Commerce may consider either GNI or GDP in selecting potential surrogate countries. *Per capita* GNI measures the total income earned by the residents of a country, whether from domestic or foreign sources, divided by the average population of that country. *Per capita* GDP, on the other hand, measures the total value of goods and services produced within a country per person in a given year. This calculation provides insights into overall economic output and living standards of a population. Higher *per capita* GDP suggests a greater share of economic output available for each citizen, which can translate into improved living standards. GDP remains a widely recognized measure for assessing a population's economic well-being and quality of life.[129]

There are potential benefits to the use of either *per capita* GNI or *per capita* GDP. The use of *per capita* GNI as an aggregate economic indicator might be appropriate in some cases for the reasons explained in the *Surrogate Country Notice.* However, there may be other situations in which the use of *per capita* GDP might be a better measure of economic comparability. Accordingly, Commerce is proposing a modification to § 351.408(b) which allows the agency to place primary emphasis on either *per capita* GDP or *per capita* GNI since both options can be reasonably used to determine comparable economies, depending on the facts before the agency.

In addition, Commerce proposes that § 351.408(b) be further amended to allow Commerce to consider additional factors that relate to economic comparability: (1) the overall size and composition of economic activity in those countries, as measured by either GDP or GNI; (2) the composition and quantity of exports from those countries; (3) the availability, accessibility, and quality of data from those countries; and (4) additional factors which Commerce determines are appropriate to consider in light of unique factors and circumstances. Consideration of such examples may assist the agency in evaluating the economic similarities and differences between countries.

With respect to the first factor, Commerce believes that reviewing a country's overall size and composition of economic activity could reveal not only what a country produces and exports but might also provide a deeper understanding of its fundamental economic structure, development phase, and role in the global economy.[130]

With respect to countries' export compositions and quantities, such information could help Commerce identify economies with similar levels of development and industrial structures, as countries with similar types and quantities of exports will more likely than not be at a comparable economic level of development.[131] As such, consideration of such information might help Commerce provide comparisons that are most grounded in economic reality and enhance the chances that the selected surrogate countries possess similar underlying economic structures.

Commerce has also proposed to include the availability, accessibility, and quality of data from potential surrogate countries as a factor to

[124] *See, e.g., Certain Oil Country Tubular Goods from the Republic of Korean; Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances,* 79 FR 41983 (July 18, 2014), and accompany IDM at Comment 1.

[125] *Mid Continent Steel & Wire, Inc.* v. *United States,* 941 F.3d 530, 542–43 (Fed. Cir. 2019) (concluding that Commerce's analysis applying the four-part framework was a reasonable interpretation of the statute).

[126] *See Antidumping Methodologies in Proceedings Involving Nonmarket Economy Countries: Surrogate Country Selection and Separate Rates; Request for Comment,* 72 FR 13246, 13246 n.2 (Mar. 21, 2007) (*Surrogate Country Notice*).

[127] *Id.*

[128] *See, e.g., Clearon Corp* v. *United States,* 38 CIT 1122, 1137–1140 (CIT July 24, 2014); *see also Tri Union Frozen Prods.* v. *United States,* 163 F. Supp. 3d. 1255, 1268, n. 8 (CIT 2016); and *Tianjin Wanhua Co.* v. *United States,* 253 F. Supp. 3d. 1318, 1322 (CIT 2017).

[129] For examples using *per capita* GDP, *see* World Economic Outlook: Navigating Global Divergences (October 2023), International Monetary Fund (*World Economic Outlook October 2023*), available at *https://www.imf.org/en/Publications/WEO/Issues/2023/10/10/world-economic-outlook-october-2023;* World Development Indicators, World Bank, available at *https://databank.worldbank.org/indicator/NY.GDP.PCAP.CD/1ff4a498/Popular-Indicators#;* GDP per capita, purchasing power parity (current international $)—OECD members, World Bank (*GDP per capita OECD member data*), available at *https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD?locations=OE.*

[130] *See* Paul Krugman & Maurice Obstfeld, International Economics: Theory and Policy (5th ed. 2000), at 12–13, 66 (Ricardian model and Heckscher-Ohlin model showing the relationship between economic comparability and export patterns).

[131] *See id.* at 31, Table 2 (citing *2013 International Trade Statistics,* U.N.Y.B. ST/ESA/STAT/SER.G/62 vol. 1 (New York: United Nations, 2014), available at *https://www.un-ilibrary.org/content/books/9789210566988/read*).

consider because it is Commerce's experience that sometimes the best sources of surrogate values for Commerce to use in its calculations are those from countries where data are easily available, accessible and of good quality.

Lastly, Commerce proposes that it consider additional economic factors as appropriate in light of unique circumstances. Such factors could include indicators such as purchasing power parity to account for differences in spending power between countries.[132] Other examples include regional indicators that would allow Commerce, when reasonable, to select a surrogate country or countries that are in the same geographic region as the nonmarket economy country or that are not going through temporary hyperinflationary periods. Consideration of these factors would assist Commerce in selecting appropriate surrogate countries when economy-wide or sector specific prices may be contributing to distorting economic conditions.

18. Removing the Integral Linkage Specificity Provision, the Agricultural Exception to Specificity Rule and the Small- and Medium-Sized Businesses Exception to Specificity Rule—§ 351.502(d), (e) and (f). Revising and Moving the Disaster Relief Exception to Specificity Rule and Creating an Employment Assistance Programs Exception to Specificity Rule—§ 351.502(d) and (e)

In order for Commerce to find benefits provided by a particular program to be countervailable, the program must provide benefits that are legally specific, that is, not broadly available or widely used but narrowly focused and used by discrete segments of an economy. Commerce is proposing multiple changes to its specificity regulation, § 351.502. First, the agency proposes to delete the integral linkage provision found at current § 351.502(d) pursuant to which Commerce may examine whether an investigated subsidy program is specific under section 771(5A)(D) of the Act by expanding its specificity analysis to programs other than the investigated subsidy program if the investigated subsidy program is ''integrally linked'' to other subsidy programs. The concept of integral linkage contained in § 351.502(d) was a discretionary practice of Commerce at the time of its codification. There was, and is, no statutory requirement to expand the analysis of specificity under section 771(5A)(D) of the Act beyond the investigated subsidy program. Since § 351.502(d) was put into place, respondents have rarely invoked the integral linkage provision, and Commerce has rarely found two or more subsidy programs to be integrally linked.[133] For these reasons, Commerce proposes deleting the integral linkage provision found at current § 351.502(d).

Second, Commerce proposes to delete the agricultural exception found at current § 351.502(e) in order to ensure consistency with the specificity test set forth in the SAA.[134] Section 351.502(e) currently provides that Commerce will not regard a domestic subsidy as being specific under section 771(5A)(D) of the Act solely because the subsidy is limited to the agricultural sector. When current paragraph (e) was issued, Commerce explained that this exception for generally available agricultural subsidies was consistent with prior practice and that Commerce would find an agricultural subsidy to be countervailable only if it were specific *within* the agricultural sector, *e.g.,* a subsidy limited to livestock or livestock receive disproportionately large amounts of the subsidy.[135]

This regulation was based on Commerce's decisions in several cases during the 1980s, including *Asparagus from Mexico,*[136] *Fresh Cut Roses from Israel,*[137] and *Certain Fresh Cut Flowers from Mexico.*[138] In *Asparagus from Mexico,* Commerce determined that the provision of water to agricultural producers was not countervailable, explaining: ''{p}referential rates are not provided to the producers of any one agricultural product'' and ''{w}e do not consider the provision of water at a uniform rate to all agricultural producers in this region to be a benefit, which would constitute a bounty or grant, because Commerce considers the agricultural sector to constitute more than a single group of industries within the meaning of the Act.'' [139] Commerce cited this finding in support of its determination that benefits from government-funded agricultural extension services were not countervailable in *Fresh Cut Roses from Israel.*[140] This practice of considering the agricultural sector to constitute more than a specific industry or group of industries was reaffirmed again in *Certain Fresh Cut Flowers from Mexico,* when Commerce determined that loans provided under a government-sponsored loan program known as the Funds Established with Relationship to Agricultural (FIRA) program were not countervailable because they were provided to the agricultural sector as a whole and thus not specific.[141] Specifically, Commerce elaborated that: ''Producers of a wide variety of products including fruits and vegetables, livestock, grains, meat products, milk, and eggs are eligible for FIRA financing. Producers of agricultural tools may also receive financing under FIRA. FIRA loans are also provided to the fishing and the forestry industries.'' [142] Commerce also pointed out that ''{a}pproximately one-third of Mexico's labor force is employed in agriculture. The FIRA program is generally available to, and used by, wide ranging and diverse industries that constitute a substantial portion of the Mexican economy.'' [143]

Commerce's conclusion in this regard on the application of the CVD law to loans provided to the agricultural sector as a whole was upheld by the CIT in *Roses Inc.* v. *United States,* where the Court held that ''Commerce's determination that a group composed of all of agriculture, that is, whatever is not services or manufacturing, is not within the meaning of the statutory words 'industry or group of industries' is a reasonable interpretation of the statute.'' [144]

Therefore, this regulation codified Commerce's practice at the time as affirmed in the courts and informed by the global economic circumstances of the time—namely, that agriculture accounted for a significant part of many countries' economies and employed sizable portions of the labor force such that the sector as a whole could not be considered a discrete segment of the

[132] Notably, both the World Bank and IMF use the *per capita* GDP purchasing power parity in some of their economic analyses. *See GDP per capita OECD member data,* and World Economic Outlook October 2023.

[133] *See, e.g., Countervailing Duties; Final Rule,* 63 FR 65348, 65357 (November 25, 1998) (*1998 Preamble*); *see also* the *Preamble* to *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366, 23368 (May 31, 1989). The 1989 Proposed Rules were never finalized.

[134] *See* SAA at 911–955.

[135] *See 1998 Preamble,* 63 FR at 65357–65358.

[136] *See Final Negative Countervailing Duty Determination: Fresh Asparagus from Mexico,* 48 FR 21618, 21621 (May 13, 1983) (*Asparagus from Mexico*).

[137] *See Fresh Cut Roses from Israel: Final Results of Administrative Review of Countervailing Duty Order,* 48 FR 36635, 36636 (August 12, 1983) (*Fresh Cut Roses from Israel*).

[138] *See Certain Fresh Cut Flowers from Mexico,* 49 FR 15007, 15008 (April 16, 1984) (*Certain Fresh Cut Flowers from Mexico*).

[139] *See Asparagus from Mexico,* 48 FR at 21621.

[140] *See Fresh Cut Roses from Israel,* 48 FR at 36636.

[141] *See Certain Fresh Cut Flowers from Mexico,* 49 FR at 15008.

[142] *Id.*

[143] *Id.*

[144] *See Roses Inc.* v. *United States,* 774 F Supp. 1376, 1383–1384 (CIT 1991).

economy for specificity purposes. However, those economic circumstances have changed in the forty years since the development of that practice.

The agricultural sector's share of economic output and employment has steadily decreased in recent decades, especially as technology has advanced and many countries have prioritized diversifying their economies in furtherance of economic development goals.[145] These broad global economic trends are reflected in data collected and published by international organizations. For example, World Bank data indicate that world employment in agriculture as a percentage of total employment decreased from over 43 percent in 1991 (the first year for which data are available) to just over 26 percent in 2021.[146] Commerce specifically highlighted the level of agricultural employment in *Certain Fresh Cut Flowers from Mexico,* noting that one-third of Mexico's labor force was employed in agriculture.[147] World Bank data also indicate that agriculture's share of total employment in Mexico fell from nearly 26 percent in 1991 to just over 12 percent in 2021.[148] Decreases of similar magnitude during the same period can be seen in broad ''Middle income,'' ''Least developed countries,'' and ''Low and middle income'' categories, as well as specifically in large economies such as China and India that Commerce examines often in CVD proceedings.[149] Similarly, World Bank data show that the value added of the agriculture, forestry, and fishing sectors as a percentage of GDP has steadily decreased since 1980, both in terms of broad categories (*e.g.,* ''middle income countries'') and with respect to large economies such as China and India.[150]

In reexamining the impetus for the agricultural exception within the context of the original purpose of the specificity test, and in light of changing economic circumstances around the world, we find that the exception is no longer valid. The SAA states that the ''Administration intends to apply the specificity test in light of its original purpose, which is to function as an initial screening mechanism to winnow out only those foreign subsidies which truly are broadly available and widely used throughout an economy'' and that ''the specificity test was not intended to function as a loophole through which narrowly focused subsidies provided to or used by discrete segments of an economy could escape the purview of the CVD law.'' [151] Given the declining share of countries' economies accounted for by the agricultural sector, both in terms of GDP and employment, it is no longer the general rule that subsidies provided solely to the agricultural sector are ''broadly available . . . throughout an economy.'' [152] Rather, in many cases and in many countries, the agricultural sector may comprise a small and shrinking segment of the economy, and in light of the original purpose of the specificity test, subsidies to such discrete segments in that economy should not be exempt from the remedies provided by the CVD law.

Commerce has reconsidered whether a broad and far-reaching exception for agricultural subsidies is consistent with the language on specificity explicitly set forth in the SAA. Moreover, a blanket specificity exception provided to agricultural subsidy programs denotes a conclusion by Commerce that every country that is subject to a CVD investigation has an identical or similar economy with respect to the role played by agriculture within the economy. Such a conclusion is in potential conflict with the specificity test in the SAA and the statutory language of section 771(5A)(D) of the Act, which requires that Commerce analyze specificity based upon ''the jurisdiction of the authority providing the subsidy.'' Therefore, to ensure that Commerce's regulations remain consistent with CVD law and are properly adapting to changing economic realities, Commerce proposes removing the exception to the specificity rule for agricultural subsidies.

The proposed elimination of the agriculture exception to specificity does not mean that Commerce will always find agricultural subsidies to be specific; rather, under this proposal our analysis of whether an agricultural subsidy is specific would be conducted on a case-by-case basis based on a comprehensive examination of the specificity criteria enacted under section 771(5A)(D) of the Act within the framework of the specificity test set forth in the SAA.

Third, Commerce proposes to delete the small- and medium-sized business exception to the specificity rule found at current § 351.502(f), which provides that Commerce ''will not regard a subsidy as being specific under section 771(5A)(D) of the Act solely because the subsidy is limited to small firms or small- or medium-sized firms (SMEs).'' The specificity test discussed in the SAA indicates that Commerce will find not specific only those subsidy programs ''which truly are broadly available and widely used throughout an economy.'' Therefore, Commerce proposes eliminating the specificity exception provided to SMEs under § 351.502(f) to ensure that there is no conflict between our regulations and the SAA.

A blanket specificity exception provided to SME subsidy programs denotes a conclusion by Commerce that every country that is subject to a CVD investigation has an identical or similar economy with respect to the role played by SMEs. Such a conclusion is in potential conflict with the SAA and the language of section 771(5A)(D) of the Act, which requires that Commerce analyze specificity based upon the ''jurisdiction of the authority providing the subsidy'' and makes clear that specificity can be found when a subsidy is limited to any ''group'' of enterprises or industries. Accordingly, Commerce has determined that it is appropriate to delete current § 351.502(f), as the specificity of SME subsidy programs should be determined on a case-by-case basis, pursuant to the language of the SAA and section 771(5A)(D) of the Act.

Fourth, Commerce proposes to update the disaster relief exception to the specificity rule and move it from § 351.502(g) to § 351.502(d). The current disaster relief regulation states that Commerce will not regard disaster relief as being specific under section 771(5A)(D) of the Act if such relief constitutes general assistance available to anyone in the area affected by the

[145] *See, e.g.,* Anderson, K., Globalization's effects on world agricultural trade, 1960–2050, *Philosophical Transactions of The Royal Society B* (2010), No. 365, at 3007–08, available at *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2935114/pdf/rstb20100131.pdf; see also* Felipe, J., Dacuycuy, C., *et. al.,* The Declining Share of Agricultural Employment in the People's Republic of China: How Fast?, *Asian Development Bank (ADB) Economics Working Paper Series* (2014), No. 419, at 3, available at *https://www.adb.org/sites/default/files/publication/149676/ewp-419.pdf;* and Cervantes-Godoy, D.), Aligning Agricultural and Rural Development Policies in the Context of Structural Change, *OECD Food, Agriculture and Fisheries Paper* (2022), No. 187, at 5, available at *https://www.oecd-ilibrary.org/agriculture-and-food/aligning-agricultural-and-rural-development-policies-in-the-context-of-structural-change_1499398c-en;jsessionid=Vou3tl4a5mF09Msb_WUGWqSvi31NVlWRFqgFePau.ip-10-240-5-115;* Gale Johnson, D., Agricultural economics, *Encyclopedia Britannica* (2023), available at *https://www.britannica.com/money/agricultural-economics.*

[146] *See Employment in agriculture (% of total employment) (modeled ILO estimate),* World Bank, available at *https://data.worldbank.org/indicator/SL.AGR.EMPL.ZS?view=chart* (*Employment in agriculture*).

[147] *See Certain Fresh Cut Flowers from Mexico,* 49 FR at 15008.

[148] *See Employment in agriculture.*

[149] *Id.*

[150] *See Agriculture, forestry, and fishing, value added (% of GDP),* World Bank, available at *https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS?most_recent_year_desc=true&view=chart.*

[151] *See* SAA at 929.

[152] *Id.*

disaster. With the onset of the global Covid–19 pandemic, Commerce encountered certain government programs that provided Covid–19 relief to individuals and enterprises affected by the pandemic. Where the assistance was generally available to any individual or enterprise in the area affected by the pandemic, Commerce found the assistance to be not specific.

It is unclear under the current language of the disaster relief specificity exception whether the definition of ''disaster relief'' includes relief provided during a pandemic. Commerce's practice of finding pandemic relief (if available to any individual or enterprise in the affected area) not countervailable because the relief was determined to be not specific under section 771(5A)(D) of the Act has not been controversial. However, Commerce proposes a modification to the regulatory language to specify that Commerce would not regard disaster relief, including pandemic relief, as being specific under section 771(5A)(D) of the Act if such relief constitutes general assistance available to any individual or enterprise in the area affected by the disaster. This exception to specificity provided to disaster relief, including pandemic relief, would not apply when this relief is limited on an industry or enterprise basis because the relief would not be available to any individual or enterprise in the area affected by the disaster.

With the proposed elimination of the integral linkage specificity provision and specificity exemptions granted to agricultural subsidies and to subsidies to small- and medium-sized businesses, the amended disaster relief provision at § 351.502(g) would become § 351.502(d).

Fifth, and finally, Commerce proposes to create a new employment assistance program exception to the specificity rule at § 351.502(e). Under Commerce's current practice, the agency does not generally find employment assistance programs that are created to promote the employment of certain classes or categories of workers or individuals to be specific.[153] Under this proposal, Commerce would regard employment assistance programs as being not specific under section 771(5A)(D) of the Act if such assistance is provided solely with respect to employment of general categories of workers, such as those based on age, gender, disability, veteran, and unemployment status, and is available to any individual with one or more of these characteristics without any industry restrictions.

In examining the specificity of these types of employment assistance programs, similar to unemployment programs, programs that focus on the general employment of certain classes of individuals without industry-based restrictions would not be specific within the meaning of section 771(5A)(D) of the Act.

However, job creation or retention programs that provide incentives to certain enterprises or industries, such as those implemented to attract new firms or industries or to provide incentives for firms to expand, would not fall within this exception. Similarly, any employment program related to the hiring of employees with specific job skills such as high-tech or engineering skills would also not fall within this exception. Rather, such programs would be determined on a case-by-case basis, pursuant to the language of the SAA and section 771(5A)(D) of the Act.

19. Modifying the Benefit Regulation To Include General Treatment of Contingent Liabilities and Assets—§ 351.503(b)(3)

Commerce is proposing to add a new paragraph to the benefit regulation at § 351.503(b)(3) to provide rules for the general treatment of contingent liabilities and assets that are not otherwise addressed in the regulations. Under current § 351.505(d), in the case of an interest-free loan for which the repayment obligation is contingent upon the company taking some future action or achieving some goal in fulfillment of the terms of the loan, Commerce normally treats the outstanding balance of the loan as an interest-free short-term loan.

However, other types of contingencies exist which are not explicitly referenced in this loan regulation. Commerce has encountered hybrid programs which have elements of two or more types of financial contributions, and, thus, two or more types of benefits. For example, in India, a program provides for import duty waivers contingent upon future export performance of the recipient.[154] With respect to Korea, Commerce has investigated a research and development (R&D) grant program in which participating companies are required to repay 40 percent of the R&D grant if the R&D project is deemed by the government to be successful.[155] In these cases, Commerce treated the outstanding contingent liability of the import duty exemptions in India and the R&D grant in Korea as contingent liability interest-free loans within the meaning of § 351.505(d). In addition, under § 351.510, which covers direct and indirect taxes and import charges, the benefit from the deferral of indirect taxes and import charges when the final waiver of such taxes and charges is contingent on fulfillment of other criteria such as realizing an amount of export earnings is also calculated using the methodology described under § 351.505(d).

While the treatment of these contingent import duty exemptions and R&D grants under § 351.505(d) has never been a source of controversy, for purposes of clarity and flexibility the agency is proposing a separate paragraph under the benefit regulation to specifically provide for the treatment of contingent liabilities and assets that are not otherwise addressed in the regulations. As Commerce encounters ever more complicated government programs, the goal is to have a regulation that provides for the specific treatment of contingent liabilities to ensure that there is no question that any government program that incorporates a contingent element falls within the purview of the CVD law and Commerce's regulations.

Commerce has also incorporated the element of contingent assets into this proposal to ensure that a contingent asset that is provided by a government, and which has not been measured under the other rules within our CVD regulations, can be addressed within this benefit section of the CVD regulations. Therefore, for either the provision of a contingent liability or asset, the agency would treat the balance or value of the contingent liability or asset as an interest-free provision of funds and would calculate the benefit using a short-term commercial interest rate.

[153] *See, e.g., Certain Steel Nails from Korea the Republic of Korea: Final Negative Countervailing Duty Determination,* 80 FR 289966 (May 20, 2015) and accompanying IDM at 13.

[154] *See, e.g., Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Countervailing Duty Administrative Review,* 73 FR 40295 (July 14, 2008), and accompanying IDM at Comment 42 (discussing the Export Promotion Capital Goods Scheme (EPCGS)).

[155] *See, e.g., Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 76 FR 3613 (January 20, 2011), and accompanying IDM at 2–3 (discussing the Act on Special Measures for the Promotion of Specialized Enterprises for Parts and Materials).

20. Creating an Initiation Standard for Specificity Allegations Regarding Government Policy Banks; Addressing the Time of Receipt of Benefit and Allocation of Loan Benefit to a Particular Time Period; Modifying a Provision Regarding Contingent Liability Interest-Free Loans—§ 351.505(a)(6)(iii), (b), (c), and (e)

Section 351.505 applies to the procedures and policies pertaining to loans under the CVD law. Commerce proposes to make modifications to §§ 351.505(b), (c), and (e) and add new § 351.505(a)(6)(iii).

Section 351.505(a)(6)(ii) pertains to loans provided by government-owned banks. Under this proposal, Commerce would add a paragraph (iii) to address the initiation standard for specificity allegations for loans provided by government-owned policy banks, special purpose banks established by governments. Under the proposed language in paragraph (iii), an interested party would meet the initiation threshold for specificity under subparagraph (ii)(A) of Commerce's current CVD regulations with respect to section 771(5A)(D) of the Act if the party could sufficiently allege that loan distribution information is not reasonably available and that the bank provides loans pursuant to government policies or directives.

Commerce has found that information on the distribution of loans and data on the enterprises and industries that receive loans from government-owned policy banks is usually not published and, therefore, not reasonably available to U.S. petitioning industries. Thus, these interested parties are hindered in their ability to make a specificity allegation under section 771(5A)(D)(iii) of the Act due to lack of transparency of these government-owned entities. It has been our experience that government-owned policy banks are normally established by laws and regulations which discuss the purposes of the policy banks, and these laws and regulations are usually publicly available; and, thus, would be available to U.S. petitioning industries.

The provision of, and access to, capital is a critical component to the growth and development of firms and industries. The control of the distribution or allocation of capital by the government has been shown to lead to a misallocation and distortion of resources within an economy.[156] Fundamentally, a subsidy is a distortion of the market process for allocating an economy's resources and this principal is an underlying foundation of Commerce's entire CVD methodology.[157]

Therefore, based on the lack of publicly available data with respect to the distribution of loans for most of the state-owned policy banks that have been the subject of subsidy allegations in the past, Commerce proposes the addition of another paragraph to the regulation, § 351.505(6)(iii), to address the initiation standard for an allegation of specificity for state-owned policy banks. Where loan distribution information for the state-owned policy bank is not reasonably available, under proposed § 351.505(6)(iii) an interested party would normally meet the initiation threshold for specificity under the Act if the party sufficiently alleges that the bank provides loans pursuant to government policies or directives.

Commerce proposes a number of modifications to § 351.505(b) and (c) to establish a uniform standard with respect to the treatment of long-term loans. Commerce currently calculates the benefit for long-term loans using different methodologies depending on whether the long-term loan has a fixed interest rate, a variable interest rate, or a different repayment schedule. The proposal is intended to ensure consistency in the benefit calculation of long-term loans by focusing on the key aspect that the benefit in any given year is the difference between the amount of interest the firm paid on the investigated loan and the amount of interest that the firm would have paid on a comparable commercial loan. In addition, the use of a *comparable* commercial loan as defined under § 351.505(a) already appropriately adjusts for any differences in the government-provided loan based on whether the loan is fixed rate, variable rate, or with a term based on a different payment schedule.

Under this proposal, Commerce would modify and delete large parts of current § 351.505(c), specifically both § 351.505(c)(3) and § 351.505(c)(4). Sections 351.505(c)(3) and 351.505(c)(4) separately address long-term loans with different repayment schedules and long-term loans with variable interest rates. Commerce proposes deleting those provisions and adding a provision that indicates that, instead, Commerce would calculate the benefit conferred by any type of long-term loan in the same manner by taking the difference between what the recipient of the government loan would have paid on a comparable commercial loan and the actual amount the recipient paid on the government-provided loan during the POI/POR and allocating that benefit amount to the relevant sales during the POI/POR. Under the proposal, all long-term loans would be addressed solely in § 351.505(c)(2).

Commerce is also proposing modifying current § 351.505(b), which addresses the time of receipt of benefit for loans. That provision currently cites §§ 351.505(c)(3) and (4), so if those provisions are deleted from the regulation, § 351.505(b) has to be modified to remove reference to those provisions.

In addition, Commerce proposes deleting sentences in § 351.505(c)(1) and § 351.505(c)(2) that state that in no event may the present value of the calculated benefit in the year of receipt of the loan exceed the principal of the loan. Commerce is also proposing to delete the same sentence with respect to the provision of contingent liability interest-free loans at (e)(1). Commerce proposes to delete these sentences because section 771(5)(E) of the Act does not provide a cap on the benefit a loan may confer. The existing regulation appears to be a holdover from the 1980s when Commerce would calculate a benefit from a loan by calculating a grant equivalent for the loan and then allocate that amount over the Average Useful Life (AUL) of a firm's renewable physical assets, a methodology that has

[156] *See, e.g.,* Shleifer, A., State versus Private Ownership, *National Bureau of Economic Research Working Paper 6665* at 19 (1998) available at *https://www.nber.org/papers/w6665;* Iannotta, G., Nocera, G., *et. al.,* The Impact of Government Ownership on Bank Risk, *J. Fin. Intermediation* (2013), Vol. 22, Issue 2 at 152–176 available at *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2233564;* Gonzalez-Garcia, J. and Grigoli, F., State-Owned Banks and Fiscal Discipline, *IMF Working Paper* (2013), WP/13/206 at 3, available at *https://www.imf.org/en/Publications/WP/Issues/2016/12/31/State-Owned-Banks-and-Fiscal-Discipline-40982;* Sapienza, P., The Effects of Government Ownership on Bank Lending, *J. of Fin. Economics* (2004), Vol. 72, Issue 2, at 357–384; La Porta, R., Lopez-De-Silanes, F., *et. al.,* Government Ownership of Banks, *J. Finance* (2002), Vol. 57, No 1, at 265–301; Levy Yeyati, E., Micco, A, *et. al.,* Should the Government Be In The Banking Business? The Role of State-Owned and Development Banks, *Inter-American Development Bank Working Paper #517* (2004) at 6, available at *https://publications.iadb.org/en/publication/should-government-be-banking-business-role-state-owned-and-development-banks;* Ijaz Khwaja, A., and Mian, A., Do Lenders Favor Politically Connected Firms? Rent Provision in an Emerging Financial Market, *Q. J. Economics* (2005), Vol. 120, Issue 4, at 1371–1411; Serdar Dinc, I., Politicians and Banks: Political Influences on Government-owned Banks in Emerging Markets, *J. Fin. Economics* (2005), at 453–479; Carvalho, D., The Real Effects of Government-Owned Banks: Evidence from an Emerging Market, *J. Finance* (2012), Vol. 69, issue 2, at 577–609; and Claessens, S., Feijen, E., *et. al.,* Political Connections and Preferential Access to Finance: The Role of Campaign Contributions, *J. Fin. Economics* (2008), Vol. 88, Issue 3, at 554–580.

[157] *See Notice of Proposed Rulemaking and Request for Public Comments,* 54 FR 23366, 23367 (May 31, 1989).

since been abandoned by Commerce because the agency's experience has shown that it resulted in inaccurate measurements of loan benefits.

Finally, Commerce proposes a modification to § 351.505(e), which addresses the treatment of a contingent liability interest-free loan. Under current § 351.505(e)(2), Commerce treats a contingent liability interest-free loan as a grant if at any point in time the agency determines that the event upon which repayment depends is not a viable contingency. However, the existing regulation does not address the situation where the recipient firm has either taken the required action or achieved the contingent goal and the government has waived repayment of the contingent loan. Therefore, Commerce proposes to modify this regulation to state that it will also treat the contingent loan as a grant when the loan recipient has met the contingent action or goal and the government has not taken any action to collect repayment.

21. Address the Treatment of Firms in Government Designated ''Outside Customs Territory'' Zones—§ 351.509(a)(1) and 351.510(a)

Commerce is proposing a modification to its regulations covering direct taxes and indirect taxes and import charges (other than export programs), § 351.509 and § 351.510. The modification to both provisions is intended to clarify Commerce's treatment of the exemption of taxes and import charges in zones designated as being outside the customs territory of the country.

In the 2012 CVD investigation of *Steel Pipe from Vietnam,* Commerce determined that the exemption of import charges on capital assets into an export processing zone was not countervailable.[158] Commerce stated that the Government of Vietnam designated the respondent company as an export processing zone, and based upon that designation the operations of the company were outside the customs territory of the country.[159] Therefore, Commerce concluded that because the company was outside the customs territory of Vietnam, the exemption of import duties on capital goods did not provide a financial contribution in the form of revenue forgone.[160] However, upon further consideration of our decision in *Steel Pipe from Vietnam,* Commerce has concluded that its treatment of firms or zones that are designated as being ''outside the customs territory'' of a country in that case to be at odds with our long-term established practice, our regulations, and the purpose of the CVD statute.

Under § 351.102(a)(25), ''government-provided'' is a shorthand expression for any act or practice by a government being analyzed as a possible government subsidy. Critical to Commerce's analysis of whether a government act or practice constitutes a countervailable subsidy is a determination of what the situation of the firm would be in the absence of the government program. For example, § 351.509(a), which addresses direct taxes, states that a benefit exists to the extent that the tax paid by the firm is less than the tax the firm would have paid in the absence of the program; under § 351.510(a) regarding indirect taxes and import charges, a benefit exists to the extent that the taxes or an import charge paid by a firm as a result of the program are less than the taxes or import charges the firm would have paid in the absence of the program. Similarly, and under the benefit regulation at § 351.503(b), Commerce will consider a benefit to be conferred by government programs when a firm pays less for its inputs (*e.g.,* money, a good or service) than it otherwise would pay or receives more revenues than it otherwise would earn in the absence of the government program.

The government designation of either a firm or a zone as being outside the customs territory constitutes a government act or program as defined within Commerce's regulations. By establishing areas in which it will not collect taxes or import charges on capital goods, the government has taken an explicit action to provide both a financial contribution and a benefit to a firm that is operating within the designated area. Absent the government action, the firm otherwise would have paid either direct taxes or import charges. These government actions provide incentives to exporters, and as the Supreme Court explained in *Zenith,* a purpose of the countervailing duty law and the imposition of countervailing duties is ''to offset the unfair competitive advantage that foreign producers would otherwise enjoy from export subsidies paid by their governments.'' [161]

Thus, to ensure the appropriate application of the CVD statute, Commerce proposes an amendment to both § 351.509(a)(1) and § 351.510(a)(1) to close a potential loophole through which foreign governments might provide a countervailable subsidy including a prohibited export subsidy. Commerce proposes including the underlined language within § 351.509(a)(1): ''a benefit exists to the extent that the tax paid by a firm as a result of the program is less than the tax the firm would have paid in the absence of the program, *including as a result of being located in an area designated by the government as being outside the customs territory of the country*'' (emphasis added). For § 351.510(a), the amended language would read: ''a benefit exists to the extent that the taxes or import charges paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program, *including as a result of being located in an area designated by the government as being outside the customs territory of the country*'' (emphasis added). This new language would also be included in Commerce's proposed new § 351.521(a)(1), discussed further below, that addresses indirect taxes and import charges on capital goods and equipment (export programs).

Commerce is not proposing to add this language to § 351.518 and § 351.519, which address the exemption, remission, or deferral upon export of prior-stage cumulative indirect taxes and the remission or drawback of import charges upon export for inputs consumed in the production of an exported product. The treatment of inputs consumed in the production of an exported product codified under these sections of our regulations addresses long-established rules of global trade adopted by the United States that were first established under the General Agreement on Tariffs and Trade (GATT) and later incorporated into the World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures. For the same reason, Commerce is not incorporating this language into § 351.517, which addresses the exemption or remission upon export of indirect taxes.

22. Recognizing the Use of Sales From Government Run Auctions—§ 351.511(a)(2)(i)

Section 351.511 regulates how Commerce examines and determines if goods or services are being sold for less than adequate remuneration (LTAR) in accordance with section 771(5)(E)(iv) of the Act. Section 351.511(a)(2) defines ''adequate remuneration'' and describes the use of a market-determined benchmark price resulting from actual

[158] *See Circular Welded Carbon-Quality Steel Pipe from the Socialist Republic of Vietnam: Final Negative Countervailing Duty Determination,* 77 FR 64471 (October 22, 2012), and accompanying IDM at Comment 3.

[159] *Id.*

[160] *Id.*

[161] *See Zenith Radio Corp.* v. *United States,* 437 U.S. 443, 455–56 (1978).

transactions in the country subject to the CVD proceeding for purposes of evaluating the adequacy of remuneration. Pursuant to the language of the current provision, under certain circumstances, an in-country, market-determined price could also include ''actual sales from competitively run government auctions.'' Commerce is now proposing a modification to the regulation which would list the circumstances under which such auction prices may serve as a usable tier-one benchmark. Under this proposed change, Commerce would explain that for a government run auction to be ''competitively run,'' the government auction must use ''competitive bid procedures that are open without restriction on the use of the good or service;'' it must be ''open without restrictions to all bidders, including foreign enterprises, and protect the confidentiality of the bidders;'' it must account ''for the substantial majority of the actual government provision of the good or service in the country in question;'' and the winner of the government auction must be ''based solely on price.''

While the preamble to the current regulation provides some guidance on when Commerce would use actual sales from a government-run auction to evaluate adequate remuneration,[162] codifying a more defined set of auction criteria in § 351.511(a)(2)(i) would ensure consistency and clarity in the application of this regulation and better inform the public of the criteria that are used by Commerce in evaluating whether prices from a government-run auction can be used as an in-country, market-determined price for purposes of evaluating the adequacy of remuneration.

23. Addition of the Purchase of Goods for More Than Adequate Remuneration Regulation—§ 351.512

When Commerce issued its current CVD regulations in 1998, it designated § 351.512 as ''[reserved].'' [163] Commerce explained that it did not have sufficient experience with respect to the government purchase of a good for more than adequate remuneration (MTAR) at the time; thus, it concluded that it was not appropriate then to set forth a standard with respect to its treatment of these types of financial contributions.[164] More than 25 years later, the issue of a subsidy in the form of the government purchase for more than adequate remuneration has come before Commerce in only a limited number of cases. Nonetheless, Commerce has developed certain methodologies with respect to this type of financial contribution through those cases, especially in regard to the situations in which the government is both a provider and a purchaser of the good at issue. In addition, important differences between the treatment of an MTAR and an LTAR analysis relating to the basis of a price comparison that should be set forth within a regulation have emerged. Accordingly, Commerce is proposing a regulation providing guidance on subsidies covering the purchase of a good for MTAR.

First, proposed § 351.512(a)(1), would address the benefit conferred from the government purchase of a good, which is derived from the standard in section 771(5)(E)(iv) of the Act. Under that provision, in the case where goods are purchased by a government or a public body, a benefit would exist to the extent that such goods are purchased for more than adequate remuneration.

Next, proposed § 351.512(a)(2) would define ''adequate remuneration'' within the context of an analysis of a government's purchase of a good. The proposed standard for adequate remuneration for the purchase of a good is not as detailed as the definition of the provision of a good or service by a government under § 351.511(a)(2) because Commerce has had a much longer history and experience in addressing the provision of a good or service by a government. Though more limited, Commerce's experience is sufficient to inform a proposed general standard of adequate remuneration for a government's purchase of a good.

Under proposed § 351.512(a)(2)(i), Commerce would measure the adequacy of remuneration by comparing the price paid to the firm for the good by the government to a market-determined price for that good based on actual transactions between private parties in the country in question or, if not available, then to a world market price or prices for that good. In the application of this standard, consistent with the statute, Commerce's preference would be to use actual transactions between private parties within the country in question.

Actual transactions in the country in question must be market-based and, therefore, would consist of the sale of the investigated good between private parties. In-country market-determined prices would also include import prices. Similar to the treatment of actual transactions in § 351.511, Commerce would not intend to adjust in-country prices to account for government distortion of the market. While Commerce recognizes that government involvement in a market may have some impact on the prices of the good, such distortion will normally be minimal unless the government constitutes a substantial portion of the market.

Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market or that market-determined in-country prices are otherwise not available, proposed § 351.512(a)(2)(i) would also state that Commerce will consider the use of world market prices as the comparison price for measuring the adequacy of remuneration. If there is useable information on the record for more than one world market price, Commerce would average the world market prices that are on the record absent record evidence that one or more of those world market prices are otherwise distorted.

This proposed regulation would differ from Commerce's treatment of world market prices under the LTAR regulation, § 351.511(a)(2)(ii), pursuant to which Commerce uses world market prices in analyzing the provision of goods or services for LTAR only when it is reasonable to conclude that the good in question is commercially available to the firm. Commerce has not proposed to adopt that standard for the government purchase of a good, because section 771(5)(E) of the Act requires Commerce to assess benefit based upon the ''benefit to the recipient.'' The benefit analysis for the government purchase of a good is unrelated to whether the recipient of the benefit could purchase the good that it sold to the government; therefore, the availability to the firm of goods from outside the country is irrelevant under the ''benefit to the recipient'' standard when the financial contribution is the government purchase of a good from that firm.

Under proposed § 351.512(a)(2)(ii), if there are no market-determined domestic prices or world market prices available, then Commerce could measure the adequacy of remuneration by examining any premium provided to domestic suppliers of the good based on the government's procurement regulations and policies, those that are established in any bidding documents,[165] or any other

[162] *See 1998 Preamble,* 63 FR at 65377.

[163] *Id.,* 63 FR at 65412.

[164] *Id.,* 63 FR at 65379.

[165] In *Aluminum Extrusions from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 75 FR 54302 (September 7, 2010), Commerce found that the Procurement Law provided an incentive to domestic producers in that the government will

Continued

methodology. This assessment could include comparing the costs of production, including a reasonable profit margin, of the recipient to the price that is paid by the government for the purchased good.

Commerce recognizes that for certain products, such as enriched uranium, the primary purchasers in both the domestic and the world market are normally governments, government-owned entities, or government-controlled entities, or the purchase of such goods is highly controlled and regulated by the government.[166] In such markets Commerce would closely examine the bidding and purchase conditions in assessing whether the purchase price paid by the government is consistent with market principles, which may include an analysis of the costs of producing or processing that good.

Under proposed § 351.512(a)(2)(iii), in measuring adequate remuneration under paragraph (a)(2)(i) or (a)(2)(ii) of this section, Commerce would use an ex-factory or ex-works comparison price and the price paid to the firm for the good by the government in order to measure the benefit conferred to the recipient within the meaning of section 771(5)(E) of the Act. Therefore, if necessary, Commerce would adjust the comparison price and the price paid to the firm by the government to remove all delivery charges, import duties, and taxes to derive an ex-factory or ex-works price. This is another important difference from Commerce's LTAR methodology, where Commerce uses delivered prices pursuant to § 351.512(a)(2)(iv). Under section 771(5)(E) of the Act, Commerce is required to determine the benefit of a subsidy based on the benefit conferred to the recipient. In an LTAR analysis under § 351.511, Commerce determines the price that the recipient would have paid for the good or service from a private party and that good has to be available to the recipient. Therefore, in order for the good to be available to the recipient, the recipient has to incur delivery charges and any taxes or import changes to take possession of the good.

However, in an MTAR analysis under section 771(5)(E) of the Act, Commerce's sole focus is the benefit that is provided to the recipient from the government purchase of the good. Any delivery charges or taxes are expenses that are ultimately incurred by the government as the purchaser of the good and are not relevant to the revenue and benefit received by the MTAR subsidy recipient. Thus, the subsidy benefit conferred to the recipient in a MTAR analysis is solely the additional revenue (funds) received from the government, beyond what the market would have provided, on the purchase of that good. This is an important distinction between LTAR and MTAR benefit analyses under § 351.511 and § 351.512.

Delivery charges could be considered the provision of a service but purchases of services by the government are not financial contributions under section 771(5)(D) of the Act. Thus, delivery charges are also not countervailable subsidies under the CVD law. Including delivery charges within an MTAR analysis would potentially place Commerce in the position of finding countervailable the government purchase of services. Accordingly, for this reason as well, it is important that Commerce adjust the comparison price and the price paid to the firm by the government to remove all delivery charges in its MTAR analysis under proposed § 351.512.

Under proposed § 351.512(a)(3) Commerce proposes codifying its treatment of how it calculates a benefit when the government is both a provider and purchaser of the good, such as with electricity. In that situation, Commerce would normally measure the benefit to the recipient firm by comparing the price at which the government provided the good to the price at which the government purchased the same good from the firm. While Commerce has had limited experience with subsidies in the form of the government purchasing a good for MTAR, it has had numerous cases where the government is both the provider and purchaser of a good, *e.g.,* the government both provided and purchased electricity from a respondent, in our investigations and administrative reviews.[167]

Section 771(5)(E) of the Act states that a benefit will normally be treated as conferred when there is a ''benefit to the recipient.'' In other words, section 771(5)(E) of the Act provides the standard for determining the existence and amount of a benefit conferred through the provision of a subsidy and reflects the ''benefit-to-the-recipient'' standard which ''long has been a fundamental basis for identifying and measuring subsidies under U.S. CVD practice.'' [168] Therefore, in situations where the government is acting on both sides of the transactions—both selling a good to, and purchasing that good from, a respondent—under proposed § 351.512(a)(3), Commerce would measure the benefit to the respondent by determining the difference between the price at which the government is selling the good to the company, and the price at which the government is purchasing that good from the company. In other words, under the ''benefit-to-the-recipient'' standard set forth within section 771(5)(E) of the Act, if a government provided a good to a company for three dollars and then purchased the identical good from the company for ten dollars, logic dictates that the benefit provided to the company by the government, all else being equal, would be seven dollars.

Finally, proposed § 351.512(b) would address the timing of the receipt of the benefit from the government purchase of a good. Under § 351.512(b), Commerce would normally consider a benefit as having been received on the date on which the firm receives payment from the government for the good. Under § 351.512(c), Commerce would normally allocate (expense) the benefit to the year in which the benefit is considered to have been received under paragraph (b) of this section. However, if the purchase is for, or tied to, capital assets such as land, buildings, or capital equipment, the benefit will be allocated over time as provided in § 351.524(d)(2).

24. Removing Reserved Regulation Regarding Import Substitution Subsidies—and Creating a Regulation To Address Indirect Taxes and Import Charges on Capital Goods and Equipment (Export Programs)—§ 351.521

Import substitution subsidies are defined as subsidies that are ''contingent upon the use of domestic goods over imported goods, alone or as 1 of 2 or more conditions,'' in section 771(5A)(C) of the Act. When Commerce published its current CVD regulations in 1998, Commerce held in reserve § 351.521 for import substitution subsidies.[169] However, in the years in

purchase a good from a domestic producer as long as the price does not exceed the lowest offered price for that good from foreign producers by more than 20 percent. In the Final Determination Commerce found the program not used.

[166] *See* Uranium Enrichment, World Nuclear Association (2022), available at *https://world-nuclear.org/information-library/nuclear-fuel-cycle/conversion-enrichment-and-fabrication/uranium-enrichment.aspx.*

[167] *See, e.g., Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination,* 81 FR 53439 (August 4, 2016), and accompanying IDM at 35–36; *Certain Softwood Lumber Products from Canada: Final Affirmative Countervailing Duty Determination, and Final Negative Determination of Critical Circumstances,* 82 FR 51814 (November 8, 2017), and accompanying IDM at 159–74; and *Certain Uncoated Groundwood Paper from Canada: Final Affirmative Countervailing Duty Determination,* 83 FR 39414 (August 9, 2018), and accompanying IDM at 149–83.

[168] *See* SAA at 927.

[169] *See 1998 Preamble,* 63 FR at 65414.

which that term has been defined in the Act, Commerce has had no issues with addressing and quantifying import substitution subsidies without an applicable regulation. Accordingly, Commerce is proposing to delete this reserved regulation as unnecessary.

Instead, Commerce is proposing new § 351.521, which would address Indirect Taxes and Import Charges on Capital Goods and Equipment (Export Programs). Commerce has found that programs that provide for an exemption from or reduction of indirect taxes and import charges on capital goods and equipment to be countervailable export subsidies and has had to address such subsidies under existing regulations on the treatment of direct taxes (§ 351.509); treatment of indirect taxes and import charges (other than export programs) (§ 351.510); and remission or drawback of import charges upon export (§ 351.519).[170] However, none of these current regulations directly addresses programs that provide an exemption from indirect taxes and import charges for exporters that purchase capital goods or equipment.

A program that provides an exemption from indirect taxes and/or import duties for exporters that purchase capital equipment would not be addressed under the regulation for direct taxes (§ 351.509); nor would that program be addressed under § 351.510, which is only applicable to domestic subsidies. In addition, § 351.519 addresses duty drawback on inputs of raw materials that are consumed in the production of an exported product and thus would not be applicable to the exemption of indirect taxes and import charges provided on purchases of capital goods and equipment. Therefore, Commerce has proposed this new regulation to explicitly address the exemption of indirect taxes and import charges on capital goods and equipment that are export-specific.

Specifically, proposed new § 351.521(a)(1) and (2) address the exemption or remission of indirect taxes and import charges and the deferral of indirect taxes and import charges. In the case of export subsidies which provide full or partial exemptions from or remissions of an indirect tax or an import charge on the purchase or import of capital goods and equipment, § 351.521(a)(1) would provide that a benefit exists to the extent that the indirect taxes or import charges paid by a firm are less than they would have been but for the existence of the program (including firms located in customs territories designated as outside of the customs territory of the country). For the deferral of indirect taxes or import charges, the proposed regulation would provide that a benefit exists to the extent that appropriate interest charges are not collected. Proposed § 351.521(a)(2) would provide that a deferral of indirect taxes or import charges would normally be treated as a government-provided loan in the amount of the taxes or charges deferred, consistent with the methodology set forth in § 351.505; that Commerce would use a short-term interest rate as the benchmark for deferrals that are a year in length or shorter; and that for deferrals of more than one year, Commerce would use a long-term interest rate as the benchmark.

Proposed § 351.521(b) would provide that the time of receipt of benefits for the recipient for the exemption from or remission of indirect taxes or import charges would be when the recipient firm would otherwise be required to pay the indirect tax or import charge and the date on which the deferred tax becomes due for deferral of taxes for one year or shorter or the anniversary date of a deferral lasting for more than one year.

Finally, proposed § 351.521(c) states that Commerce would allocate the benefit of a full or partial exemption, remission, or deferral of payment of import taxes or import charges to the year in which the benefit was considered received under § 351.521(b).

25. Removing the Regulation Regarding Green Light and Green Box Subsidies Regulation—§ 351.522

Commerce proposes deleting the Green Light and Green Box subsidies provision found at current § 351.522 because the provisions are no longer relevant under U.S. law. Under section 771(5B)(G)(i) of the Act, the Green Light provisions under subparagraphs (B), (C), (D) and (E) lapsed 66 months after the WTO Agreement entered into force, *circa* 2000 and 2001, as these provisions were not extended pursuant to section 282(c) of the Uruguay Round Agreements Act.[171] Under section 771(5B)(G)(ii) of the Act, the provision for Green Box subsidies no longer applied at the end of the nine-year period beginning on January 1, 1995. Because the statutory authority to consider Green Light and Green Box subsidies ended approximately 25 years ago, Commerce proposes eliminating these obsolete provisions.

26. Revising Commerce's Attribution of Subsidies to Products Where There are Corporations With Cross-Ownership and Trading Companies, and Creating a Subheading Regarding Subsidy Calculation in Economies With High Inflation—§ 351.525(b), (c), and (d)

Under section 701(a) of the Act, Commerce is required to investigate and quantify countervailable subsidies that are provided either directly or indirectly with respect to the manufacture, production, or export of merchandise subject to a CVD investigation or administrative review. The calculation and attribution rules that are set forth under § 351.525 are the primary tools used to quantify the subsidies that are being provided either directly or indirectly to the manufacture, production and exportation of subject merchandise.

When Commerce developed the current attribution rules for cross-owned companies 25 years ago, it had limited experience with the attribution of subsidies between affiliated companies. The practice of requiring information from cross-owned companies involved in the supply of an input product, a holding or parent company, or the production of subject merchandise evolved slowly for Commerce, and this practice led to the development of some of the attribution rules that are currently codified under § 351.525. It was essentially not until the results of investigations into steel products from various countries [172] that Commerce began to attribute to a respondent the subsidies that were provided to companies that were related to the respondent through cross-ownership.[173] In those investigations, Commerce required ''complete responses for all related companies that conducted either of the following types of financial transactions: (a) Any transfer of funds (*e.g.,* grants, financial assets) or physical assets to the respondent, the benefits of which were still employed by the producer of the subject merchandise during the POI; or (b) Any assumption of debt or other financial obligation of the respondent (*e.g.,* loan payments, dividend payments, wage compensation) that the respondent would have had to pay during the

[170] *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination,* 78 FR 50379 (August 19, 2013) and accompanying IDM at 9.

[171] *See* Uruguay Round Agreements Act (URAA), Public Law 103–465, 108 Stat. 4809 (1994).

[172] *See Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria,* 58 FR 37217, 37218 (July 9, 1993).

[173] Under § 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets.

POI.'' [174] Therefore, collecting subsidy information from parent companies and affiliated input suppliers was a relatively recent practice when Commerce was developing and codifying our current attribution rules.

In the ensuing years, Commerce has developed a detailed practice with respect to the treatment of cross-owned companies and the attribution to respondents of subsidies received by cross-owned companies. Based on this experience, Commerce proposes a number of changes to its attribution rules that are currently codified under § 351.525(b)(6).

As an initial matter, cross-ownership is defined under current § 351.525(b)(6)(vi), and Commerce is not proposing a modification to that paragraph, except for moving it to § 351.525(b)(6)(vii) in light of changes to other provisions.[175]

Next, proposed § 351.525(b)(6)(iii), which addresses holding or parent companies, would delete the section that states that if a holding company merely serves as a conduit for the transfer of the subsidy from a government to a subsidiary, that Commerce will attribute the subsidy solely to the products sold by the subsidiary. This language would be redundant in light of proposed revisions to the attribution section on the transfer of subsidies between corporations with cross-ownership, as described below.

With respect to the cross-ownership attribution rule for input suppliers, § 351.525(b)(6)(iv), Commerce is proposing a number of changes in order to add more clarity with respect to the analysis of when an input is ''primarily dedicated'' to the production of a downstream product. In addition, Commerce has found that the examples provided in the 1998 preamble to the current regulations (semolina to pasta; trees to lumber; and plastic to automobiles) [176] have not assisted with respect to many of the input products that Commerce has encountered in its CVD cases. Moreover, the analysis of whether an input is primarily dedicated has been an issue in recent CIT holdings.[177] Therefore, Commerce proposes a number of factors that it would consider in its analysis of whether an input is primarily dedicated.

In § 351.525(b)(6)(iv)(A), Commerce proposes to add language to explicitly state that the attribution rule applies only to cross-owned corporations that produce the input, as opposed to cross-owned companies that procure the input from non-cross-owned companies and then provide that input to the respondent. To provide further clarity, Commerce has proposed to change the title of this attribution regulation from ''input supplier'' to ''input producer.'' The definition of an input under this attribution regulation would cover the creation or generation of by-products as a result of the production operations of the cross-owned input producer. With these proposed changes to the regulation, Commerce is not intending to change its current practice that a primarily dedicated input does not have to be used directly in the production of subject merchandise but may be used as an input at earlier stages of production.

In addition, as noted above, Commerce proposes a number of criteria or factors that it will review when determining whether an input is primarily dedicated to the production of downstream products. Under proposed § 351.525(b)(6)(iv)(B), Commerce would first determine, whether the input could be used in the production of a downstream product including subject merchandise, regardless of whether the input is actually used for the production of subject merchandise. The additional criteria, in no particular hierarchy, would allow Commerce to consider (1) whether the input is a link in the overall production chain; (2) whether the input provider's business activities are focused on providing the input to the downstream producer; (3) whether the input is a common input used in the production of a wide variety of products and industries; (4) whether the downstream producers in the overall production chain are the primary users of the inputs produced by the input producer; (5) whether the inputs produced by the input producer are primarily reserved for use by the downstream producer until the downstream producer's needs are met; (6) whether the input producer is dependent on the downstream producers for the purchases of the input product; (7) whether the downstream producers are dependent on the input producer for their supply of the input; (8) the coordination, nature and extent of business activities between the input producer and the downstream producers whether directly between the input producer and the downstream producers or indirectly through other cross-owned corporations; and (9) other factors deemed relevant by Commerce based upon the case-specific facts. The analysis of the facts on the record of whether an input is primarily dedicated is always guided by the statutory mandate of addressing, and including, countervailable subsidies provided either directly or indirectly to the manufacture or production of subject merchandise as required under section 701(a) of the Act.

Whether an input product is primarily dedicated is a highly fact-intensive analysis of all of the information on the record; such information is usually business proprietary and thus cannot be discussed in Commerce's public determinations. The fact that the data, and Commerce's analysis, usually rely on business proprietary information makes it a complicated process with respect to distinguishing specific determinations of ''primarily dedicated'' from one another. For some complicated input issues, just a few small differences in the facts on the record may be the deciding factor that render an input primarily dedicated or not. However, Commerce has concluded that the proposed criteria set forth within § 351.525(b)(6)(iv)(B) will provide additional clarity to the public with respect to Commerce's analysis of whether an input product is primarily dedicated to a downstream product.

Since the publication of the current attribution rules, Commerce has increasingly faced more complex cross-ownership issues and corporate structures. Moreover, the transactions between these cross-owned corporate entities and their provision of ''inputs'' as defined and addressed within the CVD regulations have multiplied with increased complexities. Therefore, with an additional 25 years of experience in addressing transactions between cross-owned companies since the publication of the current attribution rules, Commerce has concluded that it is appropriate now to propose an

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[174] *See Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria,* 58 FR 37217, 37218 (July 9, 1993).

[175] Commerce notes that the standard set forth in the regulation is that cross-ownership will normally be met when there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. However, Commerce's experience since 1998 has shown that other factors, such as certain familial relationships, may, in particular circumstances, warrant a finding of cross-ownership, with or without a majority voting ownership interest. *See Coated Free Sheet Paper from Indonesia: Final Affirmative Countervailing Duty Determination,* 72 FR 60642 (October 25, 2007). A finding of cross-ownership is an entity-specific determination.

[176] *See 1998 Preamble,* 63 FR at 65401 (providing examples of when it may be appropriate to attribute the subsidies received by an input supplier to the production of cross-owned corporations producing the downstream product—situations where the purpose of the subsidy provided to the input producers is to benefit both the input and downstream product.).

[177] *See, e.g., Kaptan Demir Celik Endustrisi Ve A.S.* v. *United States,* Court No. 21–00565, Slip-Op (CIT April 26, 2023); *Nucor Corporation* v. *United States,* Court No. 21–00182, Slip Op. 22–116 (CIT October 5, 2022); and *Gujarat Fluorochemicals Ltd.* v. *United States,* 617 F. Supp. 3d 1328, 1330 (CIT 2023).

additional attribution rule to cover the provision of certain ''inputs'' that are more than just input products used in the manufacture or production of downstream products, specifically cross-owned providers of electricity, natural gas or similar utility goods.

Under proposed revisions to § 351.525(b)(6)(v), titled ''Providers of utility products,'' if there is cross-ownership between a company providing electricity, natural gas or other similar utility product and a producer of subject merchandise, Commerce would attribute subsidies received by that provider to the combined sales of that provider and the sales of products sold by the producer of subject merchandise if at least one of the following two conditions is met: a substantial percentage, normally defined as 25 percent or more, of the production of the electricity, natural gas, or other similar utility product by the cross-owned utility provider is provided to the producer of subject merchandise; or the producer of subject merchandise purchases 25 percent or more of its electricity, natural gas, or other similar utility product from the cross-owned provider. Commerce has concluded that the criteria being developed for determining whether an input product is primarily dedicated to the production of downstream products is not particularly useful for utility products such as electricity and natural gas. Among other considerations, electricity and natural gas are not the same as a physical input into the production of downstream products but have emerged as goods or services that can effectively subsidize the production or manufacture of certain products. Therefore, a consistent standard of analysis for the attribution of utility products provided by a cross-owned corporation would assist the agency in effectuating the requirements of section 701(a) of the Act.

Section 771A of the Act provides standards for determining when an upstream subsidy results in a subsidy being provided to the production or manufacture of subject merchandise. However, the upstream subsidy provision applies to situations beyond those in which cross-ownership exists. This proposed regulation would focus on the provision of utility products between cross-owned companies in order to provide both clarity to the public and consistency of treatment among Commerce's cases. In proposing this standard, Commerce recognizes that in most economies, providers of goods such as electricity and natural gas are government-regulated public utilities and manufacturers require utility goods and services to conduct their operations. In Commerce's view, a utility company providing 25 percent of its output to one company indicates a significant level of dependency and dedication to one customer, and a company that purchases 25 percent of its energy needs from one supplier has also become engaged in a significant supplier relationship. Therefore, the Proposed Rule establishes a 25 percent threshold for attributing subsidies received by the cross-owned utility company and the producer of subject merchandise.

However, if the cross-owned utility company is an authority and there is an allegation that the government is providing the electricity or natural gas for less than adequate remuneration or that the private cross-owned utility company is entrusted or directed to provide electricity or natural gas for less than adequate remuneration, Commerce would normally analyze these types of allegations under § 351.511, its regulation on the provision of a good or service.

Although the proposed regulation addresses only utility product providers, Commerce retains the authority to include subsidies received by certain cross-owned companies which are not utility product providers when it concludes the specific facts on the record warrant such inclusion.

For example, Commerce has at times had to determine whether to include subsidies received by cross-owned companies that provide land, employees, and manufacturing facilities, including plants and equipment, to the producer of subject merchandise. In that situation, if the record reflects that in order to manufacture or produce merchandise that is subject to an investigation or administrative review the cross-owned company requires a manufacturing facility and equipment, land upon which to place its manufacturing facilities, and/or employees, Commerce may find that government subsidies provided to those cross-owned companies are providing, directly or indirectly, subsidies to the manufacture and production of subject merchandise as set forth within section 701(a) of the Act. In that case, Commerce might determine it appropriate to attribute the subsidies received by that provider to the combined sales of that provider and the sales of products sold by the producer of subject merchandise.

Likewise, there may be situations in which Commerce determines that it is appropriate to include subsidies received by certain cross-owned service providers in its calculations. The preamble to the current CVD regulations refers to the situation in which a government provides a subsidy to a non-producing subsidiary such as a financial subsidiary and notes that consistent with Commerce's treatment of holding companies, the agency would attribute a subsidy to a non-producing subsidiary to the consolidated sales of the corporate group.[178] Commerce normally does not include cross-owned general service providers in the attribution of subsidies.[179] Where cross-owned service providers provide critical inputs into the manufacture and production of subject merchandise, Commerce may include cross-owned service providers in the attribution of subsidies. In all cases, whether to include subsidies provided by cross-owned service providers in the attribution of subsidies is a case-specific determination.

For example, if there is cross-ownership with a company providing R&D, tolling, or engineering services directly related to the production or assembly of subject merchandise, Commerce may determine that it is appropriate to attribute subsidies received by the service provider to the combined sales of that provider and the producer of subject merchandise. In the case of a cross-owned company performing R&D for the respondent company or for the corporate group, Commerce might determine to include the subsidies provided by the government to that cross-owned R&D service provider. Similarly, if the respondent company has a cross-owned toller that assembles or manufactures the subject merchandise which is subsequently sold or exported by the respondent, Commerce might include subsidies provided by the government to that cross-owned toller.[180] With respect to engineering services, while Commerce will not include subsidies to companies that provide only general engineering services to a respondent, the agency might include subsidies to those service providers if the services are directly related to the manufacture, production or export of subject merchandise. For example, in *Fabricated Structural Steel from Canada,* Commerce included cross-owned companies that provided

[178] *See 1998 Preamble,* 63 FR at 65402.

[179] *See, e.g., Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea: Final Affirmative Countervailing Duty Determination,* 77 FR 17410 (March 26, 2012) and accompanying IDM at Comment 22.

[180] *See Certain Fabricated Structural Steel from Canada: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 33232 (July 12, 2019), and accompanying PDM at section VI. Subsidies Valuation.

engineering drafting services because these services were critical to the production and manufacture of subject merchandise.[181] While the proposed revisions to § 351.525(b)(6) do not include subsidies to cross-owned providers of services or subsidies to cross-owned providers of land, employees, and manufacturing facilities, the agency may attribute such subsidies in its CVD calculations where supported by the record.

Under the proposed language for the transfer of subsidies (formerly § 351.525(b)(6)(v), now § 351.525(b)(6)(vi)), if a cross-owned corporation received a subsidy and transferred it to a producer of subject merchandise, Commerce would attribute the subsidy only to products produced by the recipient of the transferred subsidy. Moreover, when the cross-owned corporation that transferred the subsidy could fall under two or more of the attribution rules under § 351.525(b)(6), the transferred subsidy would be attributed solely to the recipient of the transferred subsidy as set forth under § 351.525(b)(6)(vi). With these revisions to the transfer attribution rule, Commerce proposes to clarify and codify that when a cross-owned corporation transfers a subsidy, that subsidy will be attributed only to the recipient of the subsidy.

In addition, the agency proposes to amend the title of § 351.525 from ''Transfer of subsidy between corporations with cross-ownership producing different products'' to ''Transfer of subsidy between corporations with cross-ownership'' to indicate that the transfer of a subsidy can be from any cross-owned corporation, not just from a cross-owned corporation that is a manufacturer.

Furthermore, for cross-owned corporations that fall under proposed § 351.525(b)(6)(iv), Commerce will normally only request information or a questionnaire response for input producers that provide the input to the producer of subject merchandise during the POI or POR. Similarly, for cross-owned corporations that fall under proposed § 351.525(b)(6)(v), Commerce will normally only request information or a questionnaire response for cross-owned utility companies that provided electricity, natural gas or other utility product to the producer of subject merchandise during the POI or POR. In addition, for corporations producing subject merchandise under § 351.525(b)(6)(ii) that were cross-owned during the POI and POR, they must provide information and a questionnaire response covering the AUL of a firm's renewable physical assets even if one or more did not export subject merchandise to the United States during the POI or POR. Due to the ease of switching export shipments of subject merchandise between cross-owned corporations producing the subject merchandise and the potential for evasion of a CVD order, Commerce will analyze subsidies conferred to all cross-owned corporations producing subject merchandise and will calculate one CVD rate for these cross-owned entities. Commerce will also attribute subsidies provided during the AUL to all holding or parent companies that are cross-owned with the producer of subject merchandise during the POI or POR. Finally, information on the transfer of non-recurring subsidies from a cross-owned company during the AUL must be reported, even if the company that transferred the subsidy to the producer of subject merchandise is no longer cross-owned during the POI or POR or has ceased operations.

Commerce also proposes two additions to the attribution rules under § 351.525(b) to codify two longstanding Commerce practices with respect to the attribution of subsidies to plants and factories and the tying of a subsidy. Under proposed § 351.525(b)(8), Commerce would not tie or attribute a subsidy on a plant- or factory-specific basis. Under proposed § 351.525(b)(9), a subsidy would normally be determined to be tied to a product or market when the authority providing the subsidy (1) was made aware of, or otherwise had knowledge of, the intended use of the subsidy and (2) acknowledged that intended use of the subsidy prior to, or current with, the bestowal of the subsidy. Commerce also proposes to modify § 351.525(b)(1) to reflect references to the above additions of paragraphs (8) and (9) to the regulation.

In the preamble to the current CVD regulations, Commerce responded to comments supporting a regulation to allow the agency to tie or attribute subsidies on a plant- or factory-specific basis by rejecting that proposal.[182] Commerce's practice from at least the time the current CVD regulations were published over 25 years ago has been consistent—subsidies will not be attributed or tied on a plant- or factory-specific basis. Commerce now proposes to codify this practice in its regulations.

Commerce's approach to tying goes back over 42 years. In *Certain Steel Products from Belgium,* Commerce stated that it determines that a grant is ''tied when the intended use is known to the subsidy giver and so acknowledged prior to or concurrent with the bestowal of the subsidy.'' [183] When Commerce examines whether a subsidy is tied to a product or market, it has consistently used this test and proposes to codify it in proposed § 351.525(b)(9).

Under the proposed regulation, Commerce would continue to carefully examine all claims that a subsidy is tied to a product or market based on the case-specific facts on the record, To support a claim that a subsidy is tied, the documents on the record must demonstrate, in accordance with § 351.525(b)(9), that the authority providing the subsidy explicitly acknowledged the intended purpose of the subsidy prior to, or concurrent with, the bestowal of the subsidy. Because the authority and the respondent company have access to all the program-specific documentation related to the bestowal of a subsidy, the authority and the respondent company would be required to submit these documents to support any claim that a subsidy is tied. In general, these documents include all application documents submitted by the respondent company to the authority providing the subsidy and all the subsidy approval documents from that authority. A mere claim that a subsidy is tied to a product or market absent the submission of supporting documents would not be sufficient.

Because interested parties other than the respondent government and company may not have access to documents related to the application and approval of the subsidy, such interested parties may make arguments that a subsidy is tied to a product or market based on information that is reasonably available to them. The tying of R&D subsidies raises a number of difficult and challenging issues due to the complex and highly technical nature of certain R&D projects. Therefore, in general, the documents submitted to support a tying claim for R&D subsidies should clearly set forth the products that are the focus of the R&D project.

Finally, as Commerce noted in the 1998 *Preamble,* if subsidies that are allegedly tied to a particular product are in fact provided to the overall operations of a company, Commerce would continue to attribute the subsidy to all products produced by the company.[184]

In addition to the aforementioned changes to § 351.525(b), and consistent

[181] *Id.*

[182] *See 1998 Preamble,* 63 FR at 65404.

[183] *See Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Belgium,* 47 FR 39304, 39316–17 (September 7, 1982).

[184] *See 1998 Preamble,* 63 FR at 65400.

with its authority to limit examinations and administer the CVD law, Commerce further proposes to add text to § 351.525(b)(1) that would explain that when record information and resource availability supports limiting the number of cross-owned corporations examined, Commerce may so limit its examination before conducting a subsidy attribution analysis under any subsidy attribution provisions.

For example, Commerce has determined in past cases that a limitation of examination was warranted when a respondent had a large number of cross-owned input suppliers and examination of each of those input suppliers would have been unduly burdensome based on the record information and its available resources. In such a situation, Commerce would have the discretion to limit the number of cross-owned input suppliers it may examine. This language is not intended to restrict the situations in which Commerce may determine that a limitation on examination of cross-owned corporations is appropriate or change Commerce's current practice of limiting examination of entities besides cross-owned corporations when appropriate under § 351.525.

The agency proposes to revise § 351.525(c), which pertains to trading companies. When Commerce codified its trading company practice in 1998 under § 351.525(c), trading companies were not selected as respondents in Commerce's investigations or administrative reviews. However, when Commerce started using CBP import data to identify the largest producers/exporters of subject merchandise for purposes of selecting respondents, Commerce discovered that in many cases the largest exporters were trading companies. Commerce used the current trading company regulation to cumulate the subsidies provided to the trading company with those provided to the producers from which the trading company has sourced the subject merchandise that it exported to the United States.[185] However, in order to provide consistency and clarity with respect to its cumulation methodology when a trading company is selected as a respondent, Commerce proposes codifying this methodology within its trading company regulation.

Thus, in proposed §§ 351.525(c)(i) through (iii), Commerce has included language stating that when the producer of subject merchandise exports through a trading company, Commerce will prorate the subsidy rate calculated for the trading company by using the ratio of the producer's total exports of subject merchandise to the United States sold through the trading company to the producer's total exports of subject merchandise to the United States and add the resultant rate to the producer's calculated subsidy rate. If the producer exports subject merchandise to the United States through more than one trading company, this calculation would be performed for each trading company and added, or cumulated, to the producer's calculated subsidy rate. Such an addition to the regulation would provide consistency in the application of the trading company regulation and provide clarity to the public with respect to this practice.[186]

With respect to proposed § 351.525(d), Commerce has observed instances where the country whose imports were the subject of investigation or review was experiencing high inflation during either the POI or POR or had experienced levels of high inflation during the AUL period of the firm's renewable physical assets when the government had provided large non-recurring subsidies such as equity infusions to the respondent company. In those cases, Commerce addressed the high inflation rate in order to prevent distortions in the calculated *ad valorem* subsidy rate. However, the agency's treatment of high inflation has been inconsistent. For example, in cases on *CTL Plate from Mexico* in 2000, 2001, and 2004,[187] *Turkish Pasta*[188] in 2001, *Steel Wire Rod from Turkey*[189] in 2002, *Cold-Rolled Steel from Brazil*[190] in 2002, and *CTL Plate from Mexico Reviews*[191] in 2004, Commerce made adjustments to its subsidy calculations to account for periods of high inflation but did not do so in *Honey from Argentina*[192] in 2004 and *Biodiesel from Argentina*[193] in 2017.[194] Therefore, to clarify its practice and to improve consistency as to when the agency will adjust its subsidy calculations for high inflation, Commerce is proposing new paragraph § 351.525(d) to provide that Commerce would normally adjust its subsidy calculations for when inflation is higher than 25 percent per annum during the relevant period. Commerce has used a variety of methodologies to account for high inflation and proposed § 351.525(d) would allow for any of them to be used in the appropriate context. Consistent with *Steel Wire Rod from Turkey,* Commerce is defining

[185] Commerce's practice of cumulating subsidies provided to trading companies with the subsidies provided to the producer of subject merchandise began in 1984 with *the Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Korea,* 49 FR 46776, 46777 (November 28, 1984). When Commerce codified this practice in our current CVD regulations in 1998, Commerce did not set forth a detailed methodology but stated that the subsidy benefits provided to trading companies would be cumulated with the subsidy benefits provided to the producer of the subject merchandise. *See 1998 Preamble,* 63 FR at 65404. The Preamble to the trading company regulation did not provide guidance as to how these subsidy benefits were to be cumulated. *Id.* While this approach provided Commerce with some flexibility as to how the subsidy benefits provided to trading companies were to be cumulated with the subsidy benefits conferred to the producer of subject merchandise, this lack of clarity in the language of the regulation also led to inconsistencies in the application of the methodology.

[186] *See, e.g., Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 2019,* 87 FR 20821 (April 8, 2022), and the accompanying IDM at Comment 6.

[187] *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Administrative Review,* 65 FR 13368 (March 13, 2000) (*CTL Plate from Mexico 2000*), and accompanying IDM at 3–4; *see also Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Administrative Review,* 66 FR 14549 (March 13, 2001) (*CTL Plate from Mexico 2001*), and accompanying IDM at 5–6; and *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Administrative Review,* 69 FR 1972 (January 13, 2004) (CTL Plate from Mexico 2004) (*CTL Plate from Mexico 2004*), and accompanying IDM at 4.

[188] *See Certain Pasta from Turkey: Final Results of Countervailing Duty Administrative Review,* 66 FR 64398 (December 13, 2001) and accompanying IDM at 3.

[189] *See Final Negative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Turkey,* 67 FR 55815 (August 30, 2002), and accompanying IDM at 3 (*Steel Wire Rod from Turkey*).

[190] *See Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from Brazil,* 67 FR 621128 (October 3, 2002) and accompanying IDM (*Cold-Rolled Carbon Steel Flat Products from Brazil*) at 7.

[191] *See CTL Plate from Mexico 2000* IDM at 3–4; *see also CTL Plate from Mexico 2001* IDM at 5–6; and *CTL Plate from Mexico 2004* IDM at 4.

[192] *See Honey from Argentina: Final Results of Countervailing Duty Administrative Review,* 69 FR 29518 (May 24, 2004), and accompanying IDM (making no adjustments to account for high inflation).

[193] *See Biodiesel from the Republic of Argentina: Final Affirmative Countervailing Duty Determination,* 82 FR 53477 (November 16, 2017), and accompanying IDM (making no adjustments to account for high inflation).

[194] Neither *Honey* nor *Biodiesel* reference high inflation in Argentina, although the companion antidumping cases completed at the same time made adjustments to account for high inflation. *See Honey from Argentina: Final Results of Antidumping Duty Administrative Review,* 69 FR 30283 (May 27, 2004), and accompanying IDM at Comment 4; *see also Biodiesel from Argentina: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 83 FR 8837 (March 1, 2018), and accompanying IDM at Comment 6.

''high inflation'' as an annual inflation rate above 25 percent.

In *Steel Wire Rod from Turkey,* the annual inflation rate in Turkey exceeded 25 percent during the POI. Therefore, to prevent any distortions in its calculated subsidy rate due to the high level of inflation, Commerce adopted a methodology to adjust for inflation during the POI. Adjusting the subsidy benefits and the sales figures for inflation neutralizes any potential distortion in Commerce's subsidy calculations caused by high inflation and the timing of the receipt of the subsidy. To calculate the *ad valorem* subsidy rates for each program Commerce indexed the benefits received in each month and the sales made in each month to the last year of the POI/POR to calculate inflation-adjusted values for benefits and the relevant sales denominators. In these high inflation calculation adjustments, Commerce used the changes in the Wholesale Price Index for Turkey as reported in the International Monetary Fund's (IMF's) International Financial Statistics. In other cases where a country was experiencing high inflation, the agency used government-published indexes that are used by companies to adjust their accounting records on a monthly basis in its analysis.[195]

Commerce has also investigated non-recurring subsidies, normally the provision of equity, where the provision of the subsidy occurred during a period within the AUL in which the country experienced high inflation. The issue before Commerce in those cases was how to account for the periods of high inflation in order to accurately calculate the benefit. In *Cold-Rolled Steel from Brazil,* Commerce found that from 1984 through 1994, Brazil experienced persistent high inflation.[196] There were no long-term fixed-rate commercial loans made in domestic currencies during those years with interest rates that could be used as discount rates. Commerce determined that the most reasonable way to account for the high inflation in the Brazilian economy through 1994, given the lack of an appropriate Brazilian currency discount rate, was to convert values of the equity infusions provided in Brazilian currency into U.S. dollars.[197] If the date of receipt of the equity infusion was provided, Commerce applied the exchange rate applicable on the day the subsidies were received or, if that date was unavailable, the average exchange rate in the month the subsidies were received.[198] Then Commerce applied as the discount rate a contemporaneous long-term dollar lending rate in Brazil.[199] Therefore, for Commerce's discount rate, it used data for U.S. dollar loans in Brazil for long-term, non-guaranteed loans from private lenders, as published in the World Bank Debt Tables: External Finance for Developing Countries.[200]

In three reviews of *CTL Plate from Mexico,* Commerce determined, based on information from the Government of Mexico (GOM), that Mexico experienced significant inflation from 1983 through 1988 and significant, intermittent inflation during the period 1991 through 1997.[201] In accordance with past practice, because Commerce found significant inflation in Mexico and because the respondent AHMSA adjusted for inflation in its financial statements, Commerce made adjustments, where necessary, in each of those reviews to account for inflation in the benefit calculations.[202] Because Mexico experienced significant inflation during only a portion of the 15-year allocation period, had Commerce either indexed for the entire period or converted the non-recurring benefits into U.S. dollars at the time of receipt (*i.e.,* dollarization) for use in Commerce's calculations, such actions would have inflated the benefit from these infusions by adjusting for inflationary as well as non-inflationary periods. Thus, in the *CTL Plate from Mexico* [203] reviews, Commerce used a loan-based methodology instead to reflect the effects of intermittent high inflation.

The methodology Commerce used in the *CTL Plate from Mexico* reviews assumed that, in lieu of a government equity infusion/grant, a company would have had to take out a 15-year loan that was rolled over each year at the prevailing nominal interest rate. The benefit in each year of the 15-year period equaled the principal plus interest payments associated with the loan at the nominal interest rate prevailing in that year. Because Commerce assumed that an equity infusion/grant given was equivalent to a 15-year loan at the current rate in the first year, a 14-year loan at current rates in the second year and so on, the benefit after the 15-year period would be zero, just as with Commerce's grant amortization methodology. Because nominal interest rates were used, the effects of inflation were already incorporated into the benefit. The use of this methodology had been upheld by the Federal Circuit in *British Steel III.*[204] Commerce used the loan-based methodology in the *CTL Plate from Mexico* reviews, described above, for all non-recurring, peso-denominated grants received since 1987.

It is Commerce's intent that the proposed language at § 351.525(d) addressing the calculation of subsidy rates will provide enhanced consistency in the treatment of economies experiencing high inflation. To implement this methodology for countries experiencing high inflation during the POI or POR, Commerce normally will follow the methodology used in *Steel Wire Rod from Turkey.* For cases where the high inflation occurred during the AUL period at the time of a provision of equity or other nonrecurring subsidies, Commerce may rely on the methodology employed in *CTL Plate from Mexico* or *Cold-Rolled Steel from Brazil.*

27. Removing Regulation Regarding Program-Wide Changes and Creating a Regulation Regarding Subsidy Extinguishment From Changes in Ownership—§ 351.526

Under current § 351.526, Commerce may take into account a program-wide change to lower the cash deposit rate from the subsidy rate that was calculated for the firm during the POI or POR in establishing an estimated countervailing duty cash deposit rate if certain conditions are met. While program-wide changes that result in the adjustment of the cash deposit rate are extremely rare, Commerce is proposing to eliminate the program-wide change regulation because it treats differently the interests of the interested parties by providing an avenue only for respondent-interested parties to lower the cash deposit rate but no comparable avenue for the U.S. industry, a situation that Commerce has concluded is fundamentally unfair and at odds with the neutral application of the countervailing duty law. Moreover, there is nothing in the Act that supports or requires the practice of a recognizing program-wide change for this purpose. Indeed, section 705(c)(1)(B)(ii) of the Act indicates that the cash deposit rate shall be based on the estimated countervailable subsidy rate and makes

[195] *See, e.g., Final Affirmative Countervailing Determination; Steel Wheels from Brazil,* 54 FR 15523, 15526 (April 18, 1989).

[196] *See, e.g., Cold-Rolled Carbon Steel Flat Products from Brazil* at 7.

[197] *Id.*

[198] *Id.*

[199] *Id.*

[200] *Id.*

[201] *See CTL Plate from Mexico 2000* IDM at 3–4; *see also CTL Plate from Mexico 2001* IDM at 5–6; and *CTL Plate from Mexico 2004* IDM at 4.

[202] *Id.*

[203] *Id.*

[204] *British Steel plc* v. *United States,* 127 F.3d 1471 (Fed. Cir. 1997) (*British Steel III*).

no reference to exceptions for changes of any sort to such subsidy programs.

In proposing to delete this program and cease to adjust cash deposit rates to account for the termination of a subsidy program, whether the termination occurred during the POI, POR, or AUL, Commerce is not seeking to change its practice with respect to determining when an investigated program is terminated. Commerce would maintain its long-standing practice to find a program to be terminated only if the termination is effectuated by an official act, such as the enactment of a statute, regulation, or decree, or the termination date of the program is explicitly set forth in the statute, regulation, or decree that established the program.[205]

Moreover, Commerce would continue its practice of investigating terminated programs that potentially provided a benefit during the POI or POR. For example, if Commerce was reviewing a company during a POR with a calendar year of 2023, but during the underlying CVD investigation Commerce found that a program providing grants for the purchase of capital equipment was terminated in 2016, Commerce might still include this terminated program in the 2023 administrative review if the AUL, and therefore the benefit stream of the grant, lasted to or beyond the review period. Depending on the AUL, under this practice Commerce would continue to include that program in all future administrative reviews until the non-recurring benefit was fully allocated.

In the place of the removed § 351.526, Commerce proposes adding a new regulation which would address subsidy extinguishment from changes in ownership. Section 771(5)(f) of the Act provides that a change in ownership of all or part of a foreign enterprise or the productive assess of a foreign enterprise does not, by itself, require a determination that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction. The SAA explained that ''the term 'arm's-length transaction' means a transaction negotiated between unrelated parties, each acting in its own interest, or between related parties such that the terms of the transaction are those that would exist if the transaction had been negotiated between unrelated parties.'' [206] In addition, the SAA stated that ''[s]ection 771(5)(F) is being added to clarify that the sale of a firm at arm's length does not automatically, and in all cases, extinguish any prior subsidies conferred'' because the ''issue of the privatization of a state-owned firm can be extremely complex and multifaceted.'' [207]

Consistent with the Act and SAA, and against a broader background of domestic litigation and WTO dispute settlement findings, in 2003 Commerce published a modification to its change-in-ownership methodology for sales by a government to private buyers (*i.e.,* privatizations).[208] In a subsequent CVD proceeding in 2004 involving pasta from Italy, Commerce extended that methodology to address sales by a private seller to a private buyer (private-to-private sales).[209] The agency has implemented the methodology set forth in Pasta From Italy in numerous CVD proceedings since.

Commerce therefore proposes to codify that methodology in proposed § 526(a), which would establish the presumption that non-recurring subsidies continue to benefit a recipient in full over an allocation period determined consistent with Commerce's regulations,[210] notwithstanding an intervening change in ownership. However, under proposed § 351.526(b), the recipient would be able to rebut the presumption of the existence of the subsidy by demonstrating with sufficient evidence that a change in ownership occurred in which the seller sold all (or substantially all) of its company assets, retained no control of the company and its assets, and, in the case of government-to-private sales, that the sale was either at an arm's length transaction for fair market value, or, in the case of a private-to-private sale, was an arm's-length transaction and no one demonstrated that the sale was not for fair market value.

Proposed § 351.526(b)(2) and (3) sets forth the factors Commerce would consider in determining whether the transactions at issue were conducted at arm's-length and for fair market value. In determining if the transactions were for fair market value, proposed § 351.526(b)(3)(ii) would set forth a non-exhaustive list of considerations including: (1) whether the seller performed or obtained an objective analysis in determining the appropriate sales price and implemented recommendations pursuant to an objective analysis for maximizing its return on the sale; (2) whether the seller imposed restrictions on foreign purchasers or purchased from other industries, overly burdensome or unreasonable bidder qualification requirements, or any other restrictions that artificially suppressed the demand for or the purchase price of the company; (3) whether the seller accepted the highest bid reflecting the full amount that the company or its assets were actually worth under the prevailing market conditions and whether the final purchase price was paid through monetary or close equivalent compensation; and (4) whether there were price discounts or other inducements in exchange for promises of additional future investment that private, commercial sellers would not normally seek and, if so, whether such committed investment requirements were a barrier to entry or in any way distorted the value that bidders were willing to pay.

Proposed § 351.526(b)(4) states that Commerce would not find the presumption of continued benefits during the POR to be rebutted if an interested party has demonstrated that, at the time of the change in ownership, the broader market conditions necessary for the transaction price to accurately reflect the subsidy benefit were not present or were severely distorted by government action or inaction such that the transaction price was meaningfully different from what it would have been absent the distortive government action or inaction. Proposed § 351.526(b)(i) and (ii) would provide that Commerce may consider certain fundamental conditions and legal and fiscal incentives provided by the government in reaching this determination.

[205] *See Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order,* 83 FR 35212 (July 25, 2018), and accompanying IDM at ''Likelihood of Continuation or Recurrence of a Countervailable Subsidy'' (''[I]n order to determine whether a program has been terminated, we will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program. Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it. Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader government program.'').

[206] *See* SAA, at 258.

[207] *Id.* (''While it is the Administration's intent that Commerce retain the discretion to determine whether, and to what extent, the privatization of a government-owned firm eliminates any previously conferred countervailable subsidies, Commerce must exercise this discretion carefully through its consideration of the facts of each case and its determination of the appropriate methodology to be applied.'').

[208] *See Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act,* 68 FR 37125 (June 23, 2003) (Final Modification).

[209] *See Certain Pasta from Italy: Final Results of the Seventh Countervailing Duty Administrative Review,* 69 FR 70657 (December 7, 2004) (*Pasta from Italy*), and accompanying IDM at 2–5.

[210] *See* 19 CFR 351.524.

Finally, proposed § 351.526(c) addresses the situation in which an interested party has rebutted the presumption of continued benefits during the POR. In that case, the full amount of pre-transaction subsidy benefits, including the benefits of any concurrent subsidy meeting certain criteria, would be found to be extinguished and therefore not countervailable. Under proposed § 351.526(c)(2), concurrent subsidies would be defined as ''subsidies given to facilitate, encourage, or that are otherwise bestowed concurrent with a change in ownership.'' The same provision provides three criteria that Commerce normally would consider in determining if the value of a concurrent subsidy has been fully reflected in the fair market value prices of an arm's-length change in ownership and is therefore fully extinguished.

28. Modifications to Four Provisions to Address Cross-Reference Changes Pursuant to This Proposed Rule—§§ 351.104(a)(2)(iii), 351.214(1)(1), 351.214(l)(3)(iii), 351.301(c)(1), and 351.302(d)(1)(ii)

Commerce proposes updating the following provisions to bring them into accordance with the proposed regulatory language:

- In § 351.104(a)(2)(iii), revise the citation from § 351.204(d) to § 351.109(h);
- In § 351.214(l)(1) revise the citation from § 351.204(d) to § 351.109(h);
- In § 351.214(l)(3)(iii), revise the citation from § 351.204(e)(1) to § 351.107(c)(3)(ii);
- In 351.301(c)(1), revise the citation from § 351.204(d)(2) to 351.109(h)(2);
- In § 351.302(d)(1)(ii), revise the citation from § 351.204(d)(2) to § 351.109(h)(2).

Classifications

Executive Order 12866

The Office of Management and Budget has determined that this proposed rule is significant for purposes of Executive Order 12866.

Executive Order 13132

This proposed rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132 of August 4, 1999, 64 FR 43255 (August 10, 1999)).

Paperwork Reduction Act

This proposed rule does not contain a collection of information subject to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Regulatory Flexibility Act

The Chief Counsel for Regulation has certified to the Chief Counsel for Advocacy of the Small Business Administration under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed rule would not have a significant economic impact on a substantial number of small business entities. A summary of the need for, objectives of, and legal basis for this rule is provided in the preamble and is not repeated here.

The entities upon which this rulemaking could have an impact include foreign governments, foreign exporters and producers, some of whom are affiliated with U.S. companies, and U.S. importers. Enforcement and Compliance currently does not have information on the number of these entities that would be considered small under the Small Business Administration's size standards for small businesses in the relevant industries. However, some of the entities may be considered small entities under the appropriate industry size standards. Although this proposed rule may indirectly impact small entities that are parties to individual AD and CVD proceedings, it would not have a significant economic impact on any such entities because the proposed rule clarifies and establishes streamlined procedures for administrative enforcement actions; it does not impose any significant costs on regulated entities. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small entities. For this reason, an Initial Regulatory Flexibility Analysis is not required and one has not been prepared.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: July 3, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

For the reasons stated in the preamble, the U.S. Department of Commerce proposes to amend 19 CFR part 351 as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.*

■ 2. Revise the heading to Subpart A to read as follows:

Subpart A—Scope, Definitions, the Record of Proceedings, Cash Deposits, Nonmarket Economy Antidumping Rates, All-Others Rate, and Respondent Selection

* * * * *

■ 3. In § 351.104, revise paragraphs (a)(2)(iii) and (a)(7) to read as follows:

§ 351.104 Record of proceedings.

(a) * * *

(2) * * *

(iii) In no case will the official record include any document that the Secretary rejects as untimely filed or any unsolicited questionnaire response unless the response is a voluntary response accepted under § 351.109(h) (see § 351.302(d)).

* * * * *

(7) *Special rules for public versions of documents originating with the Department with no associated ACCESS barcode numbers.* Public versions of documents originating with Commerce in other segments or proceedings under paragraph (a)(6)(iii) through (xii) of this section but not associated with an ACCESS barcode number, including documents issued before the implementation of ACCESS, must be submitted on the record in their entirety to be considered by the Secretary in its analysis and determinations and are subject to the timing and filing restrictions of § 351.301. Preliminary and final issues and decision memoranda issued by the Secretary in investigations and administrative reviews before the implementation of ACCESS pursuant to §§ 351.205, 210 and 213 may be cited in full without placing the memoranda on the record.

* * * * *

■ 4. Revise § 351.107to read as follows:

§ 351.107 Cash deposit rates; producer/exporter combination rates.

(a) *Introduction.* Sections 703(d)(1)(B), 705(d), 733(d)(1)(B), and 735(c) of the Act direct the Secretary to order the posting of cash deposits, as determined in preliminary and final determinations of antidumping and countervailing duty investigations, and additional provisions of the Act, including section 751, direct the

Secretary to establish a cash deposit rate in accordance with various reviews. This section covers the establishment of cash deposit rates and the instructions which the Secretary issues to U.S. Customs and Border Protection to collect those cash deposits.

(b) *In general.* The Secretary will instruct U.S. Customs and Border Protection to suspend liquidation of merchandise subject to an antidumping duty or countervailing duty proceeding and apply cash deposit rates determined in that proceeding to all imported merchandise for which a cash deposit rate was determined by the Secretary in proportion to the estimated value of the merchandise as reported to U.S. Customs and Border Protection on an *ad valorem* basis.

(c) *Exceptions*—(1) *Application of cash deposit rates on a per-unit basis.* If the Secretary determines that the information normally used to calculate an *ad valorem* cash deposit rate is not available or the use of an *ad valorem* cash deposit rate is otherwise not appropriate, the Secretary may instruct U.S. Customs and Border Protection to apply the cash deposit rate on a per-unit basis. Units to which a cash deposit rate may be applied include, but are not limited to, weight, length, volume, packaging, and individual units of the product itself.

(2) *Application of cash deposit rates to producer/exporter combinations.* The Secretary may instruct U.S. Customs and Border Protection to apply a determined cash deposit rate only to imported merchandise both produced by an identified producer and exported by an identified exporter if the Secretary determines that such an application is appropriate. Such an application is called a producer/exporter combination.

(i) *Example.* Exporter A exports to the United States subject merchandise produced by Producers W, X, and Y. In such a situation, the Secretary may establish a cash deposit rate applied to Exporter A that is limited to merchandise produced by Producers W, X, and Y. If Exporter A begins to export subject merchandise produced by Producer Z, that cash deposit rate would not apply to subject merchandise produced by Producer Z.

(ii) *In general.* The Secretary will instruct U.S. Customs and Border Protection to apply a cash deposit rate to a producer/exporter combination or combinations when the cash deposit rate is determined as follows:

(A) Pursuant to a new shipper review, in accordance with section 751(a)(2)(B) of the Act and § 351.214;

(B) Pursuant to an antidumping investigation of merchandise from a nonmarket economy country, in accordance with sections 733 and 735 of the Act and §§ 351.205 and 210, for merchandise exported by an examined exporter;

(C) Pursuant to scope, circumvention, and covered merchandise segments of the proceeding, in accordance with §§ 351.225(m), 351.226(m) and 351.227(m), when the Secretary makes a segment-specific determination on the basis of a producer/exporter combination; and

(D) Additional segments of a proceeding in which the Secretary determines that the application of a cash deposit rate to a producer/exporter combination is warranted based on facts on the record.

(3) *Exclusion from an antidumping or countervailing duty order*—(i) *Preliminary determinations.* In general, in accordance with sections 703(b) and 733(b) of the Act, if the Secretary makes an affirmative preliminary antidumping or countervailing duty determination and the Secretary preliminarily determines an individual weighted-average dumping margin or individual net countervailable subsidy rate of zero or *de minimis* for an investigated exporter or producer, the exporter or producer will not be excluded from the preliminary determination or the investigation. However, the Secretary will not instruct U.S. Customs and Border Protection to suspend liquidation of entries or collect cash deposits on the merchandise produced and exported from the producer/exporter combinations examined in the investigation and identified in the **Federal Register**, as the investigated combinations will not be subject to provisional measures under sections 703(d) or 733(d) of the Act.

(ii) *Final determinations.* In general, in accordance with sections 705(a), 735(a), 706(a), and 736(a) of the Act, if the Secretary makes an affirmative final determination, issues an antidumping or countervailing duty order and determines an individual weighted-average dumping margin or individual net countervailable subsidy rate of zero or *de minimis* for an investigated producer or exporter, the Secretary will exclude from the antidumping or countervailing duty order only merchandise produced and exported in the producer/exporter combinations examined in the investigation and identified in the **Federal Register**. An exclusion applicable to a producer/exporter combination shall not apply to resellers. Excluded producer/exporter combinations may include transactions in which the exporter is both the producer and exporter, transactions in which the producer's merchandise has been exported to the United States through multiple exporters individually examined in the investigation, and transactions in which the exporter has sourced from multiple producers identified in the investigation.

(iii) *Example.* If during the period of investigation, Exporter A exports to the United States subject merchandise produced by Producer X, based on an examination of Exporter A the Secretary may determine that the dumping margins with respect to the examined merchandise are *de minimis.* In that case, the Secretary would normally exclude only subject merchandise produced by Producer X and exported by Exporter A. If Exporter A began to export subject merchandise produced by Producer Y, that merchandise would be subject to the antidumping duty order.

(4) *Certification requirements.* If the Secretary determines that parties must maintain or provide a certification in accordance with § 351.228, the Secretary may instruct U.S. Customs and Border Protection to apply a cash deposit requirement that is based on the facts of the case and effectuates the administration and purpose of the certification.

(d) *The antidumping duty order cash deposit hierarchies.* (1) *In general.* If the Secretary has not previously established a combination cash deposit rate under paragraph (c)(2) of this section for the producer and exporter in question, the following will apply:

(i) *A market economy country proceeding.* In a proceeding covering merchandise produced in a market economy country:

(A) If the Secretary has established a current cash deposit rate for the exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the cash deposit rate established for the exporter to entries of the subject merchandise;

(B) If the Secretary has not established a current cash deposit rate for the exporter, but the Secretary has established a current cash deposit rate for the producer of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the cash deposit rate established for the producer of the subject merchandise to entries of the subject merchandise; and

(C) If the Secretary has not established a current cash deposit rate for either the producer or the exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the all-others rate determined in the investigation to entries of the subject

merchandise, pursuant to section 735(c) of the Act and § 351.109(f).

(ii) *A nonmarket economy country proceeding.* In a proceeding covering merchandise originating from a nonmarket economy country:

(A) If the Secretary has established a current separate cash deposit rate for the exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the cash deposit rate for the exporter to entries of the subject merchandise;

(B) If the Secretary has not established a current separate cash deposit rate for an exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the cash deposit rate determined by the Secretary for the nonmarket economy entity to entries of the subject merchandise, pursuant to § 351.108(b); and

(C) If the entries of subject merchandise were resold to the United States through a third-country reseller, the Secretary will normally instruct U.S. Customs and Border Protection to apply the current separate cash deposit rate applicable to the nonmarket economy country exporter (or the applicable producer/exporter combination, if warranted) that supplied the subject merchandise to the reseller to those entries of the subject merchandise.

(2) *Exception.* If the Secretary determines that an application of cash deposit rates other than that described in paragraph (d)(1) of this section to particular producers or exporters is warranted, the Secretary may instruct U.S. Customs and Border Protection to use an alternative methodology in applying those cash deposit rates to entries of subject merchandise.

(e) *The countervailing duty order cash deposit hierarchy.* (1) *In general.* If the Secretary has not previously established a combination cash deposit rate under paragraph (c)(2) of this section for the producer and exporter in question and the exporter and producer have differing cash deposit rates, the following will apply:

(i) If the Secretary has established current cash deposit rates for both the producer and the exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the higher of the two rates to the entries of subject merchandise;

(ii) If the Secretary has established a current cash deposit rate for the producer but not the exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the producer's cash deposit rate to entries of subject merchandise;

(iii) If the Secretary has established a current cash deposit rate for the exporter but not the producer of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the exporter's cash deposit rate to entries of subject merchandise; and

(iv) If the Secretary has not established current cash deposit rates for either the producer or the exporter of the subject merchandise, the Secretary will instruct U.S. Customs and Border Protection to apply the all-others rate determined in the investigation pursuant to section 705(c)(5) of the Act and § 351.109(f) to the entries of subject merchandise.

(2) *Exception.* If the Secretary determines that an application of cash deposit rates other than that described in paragraph (e)(1) of this section to particular producers or exporters is warranted, the Secretary may instruct U.S. Customs and Border Protection to use an alternative methodology in applying those cash deposit rates to the entries of subject merchandise.

(f) *Effective dates for amended preliminary and final determinations and results of review upon correction of a ministerial error.* If the Secretary amends an agency determination in accordance with sections 703, 705(e), 733 and 735(e) of the Act and §§ 351.224 (e) through (g):

(1) If the Secretary amends a preliminary or final determination in an investigation for a ministerial error and the amendment increases the dumping margin or countervailing duty rate, the new cash deposit rate will be effective to entries made on or after the date of publication of the amended determination;

(2) If the Secretary amends a preliminary or final determination in an investigation for a ministerial error and the amendment decreases the dumping margin or countervailing duty rate, the new cash deposit rate will be retroactive to the date of publication of the original preliminary or final determination, as applicable;

(3) If the Secretary amends the final results of an administrative review pursuant to a ministerial error, the effective date of the amended cash deposit rate will be retroactive to entries following the date of publication of the original final results of administrative review regardless of whether the antidumping duty margin or countervailing duty rate increases or decreases; and

(4) If the Secretary amends the final results of an investigation or administrative review pursuant to litigation involving alleged or disputed ministerial errors, the effective date of the amended cash deposit rate may differ from the effective dates resulting from the application of paragraphs (f)(1) through (f)(3) of this section and normally will be identified in a **Federal Register** notice.

■ 5. Add § 351.108 to subpart A to read as follows:

§ 351.108 Rates for entities from nonmarket economies in antidumping proceedings.

(a) *Introduction.* When the Secretary determines that a country is a nonmarket economy country in an antidumping proceeding pursuant to section 771(18) of the Act, the Secretary may determine that all entities located in that nonmarket economy country are subject to government control and thus part of a single, government-controlled entity. All entities determined by the Secretary to be part of the government-controlled entity will be assigned the antidumping cash deposit or assessment rate applied to the government-controlled entity. That rate is called the nonmarket economy entity rate.

(b) *Separate rates.* An entity may receive its own rate, separate from the nonmarket economy entity rate, if it demonstrates on the record to the Secretary that its particular activities operate sufficiently independent from government control to justify the application of a separate rate. In determining whether an entity operates its particular activities sufficiently independent from government control to receive a separate rate, the Secretary will normally consider the following:

(1) *Government ownership and control.* When a government, at a national, provincial, or other level, holds an ownership share of an entity, either directly or indirectly, the level of ownership and other factors may indicate that the government exercises or has the potential to exercise control over an entity's general operations. No separate rate will be applied when the government either directly or indirectly holds:

(i) A majority ownership share (over fifty percent ownership) of an entity; or

(ii) An ownership interest in the entity of fifty percent or less and any one of the following criteria applies:

(A) The government's ownership share provides it with a disproportionately larger degree of influence or control over the entity's production and commercial decisions than the ownership share would normally entail, and the Secretary determines that the degree of influence or control is significant;

(B) The government has the authority to veto or control the entity's production and commercial decisions;

(C) Officials, employees, or representatives of the government have been appointed as officers of the entity, members of the board of directors, or other governing authorities in the entity that have the ability to make or influence production and commercial decisions for the entity; or

(D) The entity is obligated by law or its foundational documents, such as articles of incorporation, or other *de facto* requirements to maintain one or more officials, employees, or representatives of the government as officers, members of the board of directors, or other governing authorities in the entity that have the ability to make or influence production and commercial decisions for the entity.

(2) *Absence of de jure government control.* If an entity demonstrates that neither § 351.108(b)(1)(i) nor § 351.108(b)(1)(ii) applies to the entity, the entity must then demonstrate that the government has no control in law (*de jure*) of the entity's export activities. The following criteria may indicate the lack of government *de jure* control of the entity's export activities:

(i) The absence of a legal requirement that one or more officials, employees, or representatives of the government serve as officers of the entity, members of the board of directors, or other governing authorities in the entity that make or influence export activity decisions;

(ii) The absence of restrictive stipulations by the government associated with an entity's business and export licenses;

(iii) Legislative enactments decentralizing government control of entities; and

(iv) Other formal measures by the government decentralizing control of companies.

(3) *Absence of de facto government control.* If the entity demonstrates that §§ 351.108(b)(1)(i) and (ii) and (b)(2) do not apply to the entity, the entity must then demonstrate that the government has no control in fact (*de facto*) of the entity's export activities. The following criteria may indicate the lack of *de facto* government control of the entity's export activities:

(i) Whether the entity must maintain one or more officials, employees, or representatives of the government as officers, members of the board of directors, or other governing authorities in the entity which have the ability to make or influence export activity decisions;

(ii) Whether export prices are set by or are subject to the approval of a government agency;

(iii) Whether the entity has authority to negotiate and sign contracts and other agreements without government involvement;

(iv) Whether the entity has autonomy from the government in making decisions regarding the selection of its management;

(v) Whether the entity retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses; and

(vi) Whether there is any additional evidence on the record suggesting that the government has no direct or indirect influence over the entity's export activities.

(c) *Entities wholly owned by foreign entities incorporated and headquartered in a market economy.* In general, if the Secretary determines that an entity located in a nonmarket economy and subject to a nonmarket economy country antidumping proceeding is wholly owned by a foreign entity both incorporated and headquartered in a market economy country or countries, then the Secretary will consider the entity independent from control of the nonmarket economy government and an analysis under paragraph (b) of this section will not be necessary.

(d) *Separate Rate Applications and Certifications.* In order to demonstrate separate rate eligibility, an entity subject to a nonmarket economy country antidumping proceeding will be required to timely submit a separate rate application, as made available by the Secretary, or a separate rate certification, as applicable:

(1) In an antidumping investigation, the entity will normally file a separate rate application on the record of the investigation no later than fourteen days following publication of the notice of initiation in the **Federal Register**;

(2) In a new shipper review or an administrative review in which the entity has not been previously assigned a separate rate, the entity will normally file a separate rate application on the record no later than fourteen days following publication of the notice of initiation in the **Federal Register**. In both new shipper reviews and administrative reviews, documentary evidence of an entry of subject merchandise for which liquidation was suspended during the period of review must accompany the separate rate application.

(3) In an administrative review, if the entity has been previously assigned a separate rate in the proceeding, no later than fourteen days following publication of the notice of initiation in the **Federal Register**, the entity will instead file a certification on the record in which the entity certifies that it had entries of subject merchandise for which liquidation was suspended during the period of review and that it otherwise continues to meet the criteria for obtaining a separate rate. If the Secretary determined in a previous segment of the proceeding that certain exporters and producers should be treated as a single entity for purposes of the antidumping proceeding, then a certification filed under this paragraph must identify and certify that that the certification applies to all of the companies comprising that single entity.

(e) *Examined Respondents and Questionnaire Responses.* Entities that submit separate rate applications or certifications and are subsequently selected to be an examined respondent in an investigation or review by the Secretary must fully respond to the Secretary's questionnaires in order to be eligible for separate rate status.

* * * * *

■ 6. Add § 351.109 to subpart A to read as follows:

§ 351.109 Selection of examined respondents; single-country subsidy rate; calculating an all-others rate; calculating rates for unexamined respondents; voluntary respondents.

(a) *Introduction.* Sections 777A(c)(2) and 777A(e)(2)(A) of the Act provide that when the Secretary determines in an antidumping or countervailing duty investigation or administrative review that it is not practicable to determine individual dumping margins or countervailable subsidy rates for all potential respondents, the Secretary may determine individual dumping margins or countervailable subsidy rates for a reasonable number of exporters or producers using certain criteria set out in the Act. This section sets forth those criteria, describes the methodology the Secretary generally applies to select examined producers and exporters, and provides the means by which the Secretary determines the ''all-others rate'' set forth in sections 705(c)(5) and 735(c)(5) of the Act, separate rates in nonmarket economy antidumping proceedings, and review-specific margins or rates in administrative reviews. This section also addresses the treatment of voluntary respondents in accordance with section 782(a) of the Act.

(b) *Examining each known exporter or producer when practicable.* In an investigation or administrative review, the Secretary will determine, where

practicable, an individual weighted-average dumping margin or individual countervailable subsidy rate for each known exporter or producer of the subject merchandise.

(c) *Limiting exporters or producers examined.* (1) *In general.* If the Secretary determines in an investigation or administrative review that it is not practicable to determine individual dumping margins or countervailable subsidy rates because of the large number of exporters or producers involved in the investigation or review, the Secretary may determine individual margins or rates for a reasonable number of exporters or producers, In accordance with sections 777A(c)(2) and 777A(e)(2)(A) of the Act, the Secretary will normally limit the examination to either a sample of exporters or producers that the Secretary determines is statistically valid based on record information or exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that the Secretary determines can be reasonably examined.

(2) *Limiting examination to the largest exporters or producers.* In general, if the Secretary determines to limit the number of exporters or producers for individual examination, otherwise known as respondents, based on the largest volume of the subject merchandise from the exporting country that the Secretary determines can be reasonably examined, the Secretary will apply the following methodology:

(i) *Selecting the data source to determine the largest exporters or producers of subject merchandise.* The Secretary will normally select respondents based on data for entries of subject merchandise made during the relevant time period derived from U.S. Customs and Border Protection. If the Secretary determines that the use of the U.S. Customs and Border Protection data source is not appropriate based on record information, the Secretary may use another reasonable means of selecting potential respondents in an investigation or review including, but not limited to, the use of quantity and value questionnaire responses derived from a list of possible exporters of subject merchandise.

(ii) *Selecting the largest exporters or producers of subject merchandise based on volume or value.* The Secretary will normally select the largest exporters or producers based on the volume of imports of subject merchandise. However, the Secretary may determine at times that volume data are unreliable or inconsistent, depending on the product at issue. In those situations, the Secretary may instead select the largest exporters of subject merchandise based on the value of the imported products instead of the volume of the imported products.

(iii) *Determining whether the number of exporters or producers is too large to make individual examination of each known exporter or producer of subject merchandise practicable.* The Secretary will determine on a case-specific basis whether the number of exporters or producers is too large to make individual examination of each known exporter or producer of subject merchandise practicable based on the potential exporters or producers identified in a petition, the exporters or producers identified in the data source considered in paragraph (c)(1) of this provision, or the exporters or producers for which an administrative review is requested. In determining whether the number of exporters or producers is too large to make individual examination of each known exporter or producer of subject merchandise practicable, the Secretary will normally consider:

(A) The amount of resources and detailed analysis which will be necessary to examine each potential respondent's information;

(B) The current and future workload of the office administering the antidumping or countervailing duty proceeding; and

(C) The Secretary's overall current resource availability.

(iv) *Determining the number of exporters or producers that can be reasonably examined.* In determining the number of exporters or producers (respondents) that can be reasonably examined on a case-specific basis, the Secretary will normally:

(A) Consider the total and relative volumes (or values) of entries of subject merchandise during the relevant period for each potential respondent derived from the data source considered in paragraph (c)(2) of this section;

(B) Rank the potential respondents by the total volume (or values) of entries into the United States during the relevant period; and

(C) Determine the number of exporters or producers the Secretary can reasonably examine, considering resource availability and statutory requirements, and select the exporters or producers with the largest volume (or values) of entries consistent with that number.

(v) *Selecting additional respondents for examination.* Once the Secretary has determined the number of exporters or producers that can be reasonably examined and has selected the potential respondents for examination, the Secretary will issue questionnaires to those selected exporters or producers. If a potential respondent does not respond to the questionnaires or elects to withdraw from participation in the segment of the proceeding soon after filing questionnaire responses, or the Secretary otherwise determines early in the segment of the proceeding that a selected exporter or producer is no longer participating in the investigation or administrative review or that the exporter's or producer's sales of subject merchandise are not *bona fide,* the Secretary may select the exporter or producer with the next largest volume or value of entries to replace the respondents initially selected by the Secretary for examination.

(d) *Waiver for certain selected respondents.* The Secretary may waive individual examination of an exporter or producer selected to be an examined respondent if both the selected respondent and the petitioner file waiver requests for that selected respondent no later than five days after the Secretary has selected respondents. If the Secretary provides such a waiver and previously selected the waived respondent in accordance with paragraph (c)(2) of this section, the Secretary may select the respondent with the next largest volume or value of entries for examination to replace the initially selected respondent.

(e) *Single country-wide subsidy rate.* In accordance with 777A(e)(2)(B) of the Act, in limiting exporters or producers examined in countervailing duty proceedings, including countervailing duty investigations under sections 703(d)(1)(A)(ii) and 705 (c)(5)(B) of the Act, the Secretary may determine, in the alternative, a single country-wide subsidy rate to be applied to all exporters and producers.

(f) *Calculating the all-others rate.* In accordance with sections 705(c)(1)(B), 705(c)(5), 735(c)(1)(B)(i), and 735(c)(5) of the Act, if the Secretary makes an affirmative antidumping or countervailing duty determination, the Secretary will determine an estimated all-others rate as follows:

(1) *In general.* (i) For an antidumping proceeding involving a market economy country, the all-others rate will normally equal the weighted average of the estimated weighted-average dumping margins established for the individually investigated exporters or producers, excluding any zero and de minimis margins and any margins determined entirely under section 776 of the Act.

(ii) For a countervailing duty proceeding, the all-others rate will normally equal the weighted average of the countervailable subsidy rates

established for the individually investigated exporters and producers, excluding any zero and de minimis countervailable subsidy rates and any rates determined entirely under section 776 of the Act.

(2) *Exceptions to the general rules for calculating the all-others rate.* The Secretary may determine not to apply the general rules provided in paragraph (f)(1) of this section:

(i) If the Secretary determines that only one individually investigated exporter or producer has a calculated weighted-average dumping margin or countervailable subsidy rate that is not zero, de minimis, or determined entirely under section 776 of the Act, the Secretary may apply that weighted-average dumping margin or countervailable subsidy rate as the all-others rate.

(ii) If the Secretary determines that weight-averaging calculated dumping margins or countervailable subsidy rates established for individually investigated exporters or producers could result in the inadvertent release of proprietary information among the individually investigated exporters or producers, the Secretary may apply the following analysis:

(A) First, the Secretary will calculate the weighted-average dumping margin or countervailable subsidy rate for the individually investigated exporters or producers using their reported data, including business proprietary data;

(B) Second, the Secretary will calculate both a simple average of the individually investigated exporters' or producers' dumping margins or countervailable subsidy rates and a weighted-average dumping margin or countervailable subsidy rate using the individually investigated exporters' or producers' publicly-ranged data; and

(C) Third, the Secretary will compare the two averages calculated in paragraph (f)(2)(ii)(B) of this section with the weighted-average margin or rate determined in paragraph (f)(2)(ii)(A) of this section. The Secretary will apply, as the all-others rate, the average calculated in paragraph (f)(2)(ii)(B) of this section which is numerically the closest to the margin or rate calculated in paragraph (f)(2)(ii)(A) of this section.

(iii) If the estimated weighted average dumping margins or countervailable subsidy rates established for all individually investigated exporters and producers are zero, *de minimis,* or determined entirely under section 776 of the Act, the Secretary may use any reasonable method to establish an all-others rate for exporters and producers not individually examined, including averaging the estimated weighted average dumping margins or countervailable subsidy rates determined for the individually investigated exporters and producers.

(3) *A nonmarket economy country entity rate is not an all-others rate.* The all-others rate determined in a market economy antidumping investigation or countervailing duty investigation may not be increased in subsequent segments of a proceeding. The rate determined for a nonmarket economy country entity determined in an investigation is not an all-others rate and may be modified in subsequent segments of a proceeding if selected for examination.

(g) *Calculating a rate for unexamined exporters and producers.* In determining a separate rate in an investigation or administrative review covering a nonmarket economy country pursuant to § 351.108(b), a margin for unexamined exporters and producers in an administrative review covering a market economy country, or a countervailable subsidy rate for unexamined exporters and producers in a countervailing duty administrative review, the Secretary will normally apply the methodology set forth in paragraphs (f)(1) and (2) of this section. If the Secretary determines that weight-averaging calculated dumping margins or countervailable subsidy rates established for individually investigated exporters or producers could result in the inadvertent release of proprietary information among the individually examined exporters or producers, then the Secretary may establish a separate rate, review-specific margin, or countervailable subsidy rate using a reasonable method other than the weight-averaging of dumping margins or countervailable rates, such as the use of a simple average of the calculated dumping margins or countervailable subsidy rates.

(h) *Voluntary respondents*—(1) *In general.* If the Secretary limits the number of exporters or producers to be individually examined under sections 777A(c)(2) or 777A(e)(2)(A) of the Act, the Secretary may choose to examine voluntary respondents (exporters or producers, other than those initially selected for individual examination) in accordance with section 782(a) of the Act.

(2) *Acceptance of voluntary respondents.* The Secretary will determine, as soon as practicable, whether to examine a voluntary respondent individually. A voluntary respondent accepted for individual examination under paragraph (h)(1) of this section will be subject to the same filing and timing requirements as an exporter or producer initially selected by the Secretary for individual examination under sections 777A(c)(2) or 777A(e)(2)(A) of the Act, and, where applicable, the use of the facts available under section 776 of the Act and § 351.308.

(3) *Requests for voluntary treatment.* (i) An interested party seeking treatment as a voluntary respondent must so indicate by including as a title on the first page of the first submission, ''Request for Voluntary Respondent Treatment.''

(ii) If multiple exporters or producers seek voluntary respondent treatment and the Secretary determines to examine a voluntary respondent individually, the Secretary will select voluntary respondents in the chronological order in which complete requests were filed correctly on the record.

(4) *Timing of voluntary respondent submissions.* The deadlines for voluntary respondent submissions will generally be the same as the deadlines for submissions by individually investigated respondents. If there are two or more individually investigated respondents with different deadlines for a submission, such as when one respondent has received an extension and the other has not, voluntary respondents will normally be required to file their submissions with the Secretary by the earliest deadline of the individually investigated respondents.

■ 7. In § 351.204:

■ a. Revise the section heading and paragraphs (a), (c), and (d); and

■ b. Remove paragraphs (e).

The revisions read as follows:

§ 351.204 Period of investigation; requests for exclusions from countervailing duty orders based on investigations conducted on an aggregate basis.

(a) *Introduction.* Because the Act does not specify the precise period of time that the Secretary should examine in an antidumping or countervailing duty investigation, this section sets forth rules regarding the period of investigation (''POI''). In addition, this section covers exclusion requests in countervailing duty investigations conducted on an aggregate basis.

* * * * *

(c) *Limiting exporters or producers examined and voluntary respondents.* Once the Secretary has initiated the antidumping or countervailing duty investigation, the Secretary may determine that it is not practicable to examine each known exporter or producer. In accordance with § 351.109(c) the Secretary may select a limited number of exporters or producers to examine. Furthermore, in

accordance with section 782(a) of the Act and § 351.109(h), the Secretary may determine to examine voluntary respondents.

(d) *Requests for exclusions from countervailing duty orders based on investigations conducted on an aggregate basis.* When the Secretary conducts a countervailing duty investigation on an aggregate basis under section 777A(e)(2)(B) of the Act, the Secretary will consider and investigate requests for exclusion to the extent practicable. An exporter or producer that desires exclusion from an order must submit:

(i) A certification by the exporter or producer that it received zero or *de minimis* net countervailable subsidies during the period of investigation;

(ii) If the exporter or producer received a countervailable subsidy, calculations demonstrating that the amount of net countervailable subsidies received was *de minimis* during the period of investigation;

(iii) If the exporter is not the producer of subject merchandise, certifications from the suppliers and producers of the subject merchandise that those persons received zero or *de minimis* net countervailable subsidies during the period of investigation; and

(iv) A certification from the government of the affected country that the government did not provide the exporter (or the exporter's supplier) or producer with more than *de minimis* net countervailable subsidies during the period of investigation.

■ 8. In § 351.212 revise paragraph (b) to read as follows:

§ 351.212 Assessment of antidumping and countervailing duties; provisional measures deposit cap; interest on certain overpayments and underpayments.

* * * * *

(b) *Assessment of antidumping and countervailing duties as the result of a review*—(1) *Antidumping Duties*—(i) *In general.* If the Secretary has conducted a review of an antidumping duty order under § 351.213 (administrative review), § 351.214 (new shipper review), or § 351.214 (expedited antidumping review), the Secretary normally will calculate an assessment rate for each importer of subject merchandise covered by the review by dividing the dumping margin found on the subject merchandise examined by the estimated entered value of such merchandise for normal customs duty purposes on an *ad valorem* basis. If the resulting assessment rate is not zero or *de minimis,* the Secretary will then instruct U.S. Customs and Border Protection to assess antidumping duties by applying the assessment rate to the entered value of the merchandise.

(ii) *Assessment on a per-unit basis.* If the Secretary determines that the information normally used to calculate an *ad valorem* assessment rate is not available or the use of an *ad valorem* rate is otherwise not appropriate, the Secretary may instruct U.S. Customs and Border Protection to assess duties on a per-unit basis. Units on which duties may be assessed include, but are not limited to, weight, length, volume, packaging, and individual units of the product itself.

* * * * *

■ 9. In § 351.213, revise paragraph (f) to read as follows:

§ 351.213 Administrative review of orders and suspension agreements under section 751(a)(1) of the Act.

* * * * *

(f) *Limiting exporters or producers examined and voluntary respondents.* Once the Secretary has initiated an antidumping or countervailing duty administrative review, the Secretary may determine that it is not practicable to examine each known exporter or producer. In accordance with § 351.109(c), the Secretary may select a limited number of exporters or producers to examine. Furthermore, in accordance with section 782(a) of the Act and § 351.109(h), the Secretary may determine to examine voluntary respondents.

* * * * *

■ 10. In § 351.214, revise the section heading and paragraphs (l)(1) and (l)(3)(iii) to read as follows:

§ 351.214 New shipper reviews under section 751(a)(2)(B) of the Act; expedited reviews in countervailing duty proceedings.

* * * * *

(l) * * *

(1) *Request for review.* If, in a countervailing duty investigation, the Secretary limited the number of exporters or producers to be individually examined under section 777A(e)(2)(A) of the Act, an exporter that the Secretary did not select for individual examination or that the Secretary did not accept as a voluntary respondent (see § 351.109(h)) may request a review under this paragraph (l). An exporter must submit a request for review within 30 days of the date of publication in the **Federal Register** of the countervailing duty order. A request must be accompanied by a certification that:

* * * * *

(3) * * *

(iii) The Secretary may exclude from the countervailing duty order in question any exporter for which the Secretary determines an individual net countervailable subsidy rate of zero or *de minimis* (see § 351.107(c)(3)(ii)), provided that the Secretary has verified the information on which the exclusion is based.

* * * * *

■ 11. In § 351.301, revise paragraphs (b)(2), (c)(1) and (c)(3) to read as follows:

§ 351.301 Time limits for submission of factual information.

* * * * *

(b) * * *

(2) If the factual information is being submitted to rebut, clarify, or correct factual information on the record, the submitter must provide a written explanation identifying the information which is already on the record that the factual information seeks to rebut, clarify or correct, including the name of the interested party that submitted the information and the date on which the information was submitted. The submitter must also provide a narrative summary explaining how the factual information provided under this paragraph rebuts, clarifies, or corrects the factual information already on the record.

(c) * * *

(1) *Factual information submitted in response to questionnaires.* During a proceeding, the Secretary may issue to any person questionnaires, which includes both initial and supplemental questionnaires. The Secretary will not consider or retain in the official record of the proceeding unsolicited questionnaire responses, except as provided under § 351.109(h)(2), or untimely filed questionnaire responses. The Secretary will reject any untimely filed or unsolicited questionnaire response and provide, to the extent practicable, written notice stating the reasons for rejection (see § 351.302(d)).

* * * * *

(3) * * *

(i) *Antidumping and countervailing duty investigations.* (A) All submissions of factual information to value factors of production under § 351.408(c) in an antidumping investigation are due no later than 60 days before the schedule date of the preliminary determination.

(B) All submissions of factual information to measure the adequacy of remuneration under § 351.511(a)(2) in a countervailing duty investigation are due no later than 45 days before the scheduled date of the preliminary determination.

(ii) *Administrative reviews, new shipper reviews, and changed circumstances reviews.* All submissions of factual information to value factors

under § 351.408(c) or to measure the adequacy of remuneration under § 351.511(a)(2) in administrative reviews, new shipper reviews and changed circumstances reviews are due no later than 60 days before the scheduled date of the preliminary results of review;

* * * * *

■ 12. In § 351.302 revise paragraph (d)(1)(ii) to read as follows:

§ 351.302 Extension of time limits; return of untimely filed or unsolicited material.

* * * * *

(d) * * *

(1) * * *

(ii) Unsolicited questionnaire responses, except as provided for voluntary respondents under § 351.109(h)(2).

* * * * *

■ 13. In § 351.306 revise paragraph (a)(3) to read as follows:

§ 351.306 Use of business proprietary information.

(a) * * *

(3) An employee of U.S. Customs and Border Protection directly involved in conducting an investigation regarding negligence, gross negligence, or fraud relating to an antidumping or countervailing duty proceeding:

* * * * *

■ 14. In § 351.308 add paragraphs (g) through (i) to read as follows:

§ 351.308 Determinations on the basis of the facts available.

* * * * *

(g) *Partial or total facts available.* In accordance with section 776(a) of the Act, if the Secretary determines to apply facts available, regardless of the use of an adverse inference under section 776(b) of the Act, the Secretary may apply facts available to only a portion of its antidumping or countervailing duty analysis and calculations, referred to as partial facts available, or to all of its analysis and calculations, referred to as total facts available, as appropriate on a case-specific basis.

(h) *Segment-specific dumping and countervailable subsidy rates.* If the Secretary has determined dumping margins or countervailable subsidy rates in separate segments of the same proceeding in which the Secretary is applying facts available, in accordance with section 776(c)(2) of the Act the Secretary may apply those margins or rates as facts available without being required to conduct a corroboration analysis.

(i) *Selection of adverse facts available.* If the Secretary determines to apply adverse facts available, in accordance with sections 776(d)(1), (2) and (3) of the Act the following applies:

(1) In an antidumping proceeding, the Secretary may use a dumping margin from any segment of the proceeding as adverse facts, including the highest dumping margin available. The Secretary may use the highest dumping margin available if the Secretary determines that such an application is warranted after evaluating the situation that resulted in an adverse inference;

(2) In a countervailing duty segment of the proceeding, the Secretary may use a countervailing subsidy rate applied to the same or similar program in a countervailing duty proceeding involving the same country or, if there is no same or similar program, use a countervailing subsidy rate from a proceeding that the Secretary determines is reasonable to use. In accordance with the hierarchy set forth in paragraph (j) of this section, the Secretary may use the highest countervailing duty rate available if the Secretary determines that such an application is warranted after evaluating the situation that resulted in an adverse inference; and

(3) In applying adverse facts available, the Secretary will not be required to:

(i) Estimate what a countervailable subsidy or dumping margin would have been if an interested party that was found to have failed to cooperate under section 776(b)(1) of the Act had cooperated; or

(ii) Demonstrate that the countervailable subsidy rate or dumping margin used by the Secretary as adverse facts available reflects an alleged ''commercial reality'' of the interested party.

* * * * *

■ 15. In § 351.309 revise paragraphs (c)(2) and (d)(2) to read as follows:

§ 351.309 Written argument.

* * * * *

(c) * * *

(2) The case brief must present all arguments that continue in the submitter's view to be relevant to the Secretary's final determination or final results, including any arguments presented before the date of publication of the preliminary determination or preliminary results. As part of the case brief, parties are requested to provide the following:

(i) A table of contents listing each issue;

(ii) A table of authorities, including statutes, regulations, administrative cases, dispute panel decisions and court holdings cited; and

(iii) A public executive summary for each argument raised in the brief. Executive summaries should be no more than 450 words in length, not counting supporting citations.

* * * * *

(d) * * *

(2) The rebuttal brief may respond only to arguments raised in case briefs and should identify the arguments raised in case briefs and should identify the arguments to which it is responding. As part of the rebuttal brief, parties are requested to provide the following:

(i) A table of contents listing each issue;

(ii) A table of authorities, including statutes, regulations, administrative cases, dispute panel decisions and court holdings cited; and

(iii) A public executive summary for each argument raised in the rebuttal brief. Executive summaries should be no more than 450 words in length, not counting supporting citations.

* * * * *

■ 16. In § 351.401, revise paragraph (f) to read as follows:

§ 351.401 In general.

* * * * *

(f) *Treatment of affiliated parties in antidumping proceedings.* (1) *In general.* In an antidumping proceeding under this part, the Secretary will normally treat two or more affiliated parties as a single entity if the Secretary concludes that there is a significant potential for manipulation of prices, production, or other commercial activities.

(2) *Significant potential for manipulation.* In identifying a significant potential for the manipulation of price, production or other commercial activities, the factors the Secretary may consider for all affiliated parties include:

(i) The level of common ownership;

(ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and

(ii) Whether operations are intertwined, such as through the sharing of sales and export information; involvement in production, pricing, and other commercial decisions; the sharing of facilities or employees; or significant transactions between the affiliated parties.

(3) *Additional considerations for affiliated parties with access to production facilities in determining the significant potential for manipulation.* In determining whether there is a significant potential for manipulation, if the Secretary determines that affiliated parties have, or will have, access to production facilities for similar or

identical products, the Secretary shall consider if any of those facilities would require substantial retooling in order to restructure manufacturing priorities.

* * * * *

■ 17. In § 351.404 add paragraph (g) to read as follows:

§ 351.404 Selection of the market to be used as the basis for normal value.

* * * * *

(g) *Special rule for certain multinational corporations.* In the course of an antidumping investigation, if the Secretary determines that the factors listed in section 773(d) of the Act are present, the Secretary will apply the special rule for certain multinational corporations and determine the normal value of the subject merchandise by reference to the normal value at which the foreign like product is sold in substantial quantities from one or more facilities outside the exporting country. In making a determination under this provision, the following will apply:

(1) Interested parties alleging that the Secretary should apply the special rule for certain multinational corporations must submit the allegation in accordance with the filing requirements set forth in § 351.301(c)(2)(i).

(2) If the Secretary determines that the non-exporting country at issue is a nonmarket economy country and, in accordance with § 351.408, normal value is to be determined using a factors of production methodology, the Secretary will not apply the special rule for certain multinational corporations.

* * * * *

■ 18. In § 351.405 revise paragraph (a) and add paragraph (b)(3) to read as follows:

§ 351.405 Calculation of normal value based on constructed value.

(a) *Introduction.* In certain circumstances, the Secretary may determine normal value by constructing a value based on the cost of manufacturing, selling, general and administrative expenses and profit. The Secretary may use constructed value as the basis for normal value when: neither the home market nor a third country market is viable; sales below the cost of production are disregarded; sales outside the ordinary course of trade or sales for which the prices are otherwise unrepresentative are disregarded; sales used to establish a fictitious market are disregarded; no contemporaneous sales of comparable merchandise are available; or in other circumstances where the Secretary determines that home market or third country prices are inappropriate. (See section 773(e) and section 773(f) of the Act.) This section clarifies the meaning of certain terms and sets forth certain information which the Secretary will normally consider in determining a constructed value.

(b) * * *

(3) Under section 773(e)(2)(B)(iii) of the Act, the Secretary will normally consider the following criteria in selecting an amount for profit normally realized by exporters or producers (other than the exporter or producer under examination) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise:

(A) The similarity of the potential surrogate companies' business operations and products to the examined producer's or exporter's business operations and products;

(B) The extent to which the financial data of the surrogate company reflects sales in the home market and does not reflect sales to the United States;

(C) The contemporaneity of the surrogate company's data to the period of investigation or review; and

(D) The extent of similarity between the customer base of the surrogate company and the customer base of the examined producer or exporter.

■ 19. In § 351.408 revise paragraph (b) to read as follows:

§ 351.408 Calculation of normal value of merchandise from nonmarket economy countries.

* * * * *

(b) *Economic comparability.* In determining whether market economy countries are at a level of economic development comparable to the nonmarket economy under sections 773(c)(2)(B) or 773(c)(4)(A) of the Act, the Secretary will place primary emphasis on either *per capita* gross domestic product (GDP) or *per capita* gross national income (GNI). As part of its analysis, the Secretary may also consider additional factors that relate to economic comparability, such as:

(1) The overall size and composition of economic activity in those countries as measured by either GDP or GNI;

(2) The composition and quantity of exports from those countries;

(3) The availability, accessibility, and quality of data from those countries; and

(4) Additional factors which are appropriate to consider in light of unique facts or circumstances.

* * * * *

■ 20. In § 351.502:

■ a. Revise paragraphs (d) and (e); and

■ b. Remove paragraphs (f) and (g).

The revisions read as follows:

§ 351.502 Specificity of domestic subsidies.

* * * * *

(d) *Disaster relief.* The Secretary will not regard disaster relief including pandemic relief as being specific under section 771(5A)(D) of the Act if such relief constitutes general assistance available to anyone in the area affected by the disaster.

(e) *Employment assistance.* The Secretary will not regard employment assistance programs as being specific under section 771(5A)(D) if such assistance is provided solely with respect to employment of categories of workers such as those based on age, gender, disability, long-term unemployment, veteran, rural or urban status and is available to everyone hired within those categories without any industry restrictions.

■ 21. In § 351.503 add paragraph (b)(3) to read as follows:

§ 351.503 Benefit.

* * * * *

(b) * * *

(3) *Contingent liabilities and assets.* For the provision of a contingent liability or asset not otherwise addressed under a specific rule identified under paragraph (a) of this section, the Secretary will treat the balance or value of the contingent liability or assets as an interest-free provision of funds and will calculate the benefit using a short-term commercial interest rate.

* * * * *

■ 22. In § 351.505:

■ a. Add paragraph (a)(6)(iii); and

■ b. Revise paragraphs (b), (c), and (e).

The additions read as follows:

§ 351.505 Loans.

(a) * * *

(6) * * *

(iii) *Initiation standard for government-owned policy banks.* An interested party will normally meet the initiation threshold for specificity under paragraph (a)(6)(ii)(A) of this section with respect to section 771(5A)(D) of the Act if the party can sufficiently allege that the government-owned policy bank provides loans pursuant to government policies or directives and loan distribution information for the bank is not reasonably available. A policy bank is a government-owned special purpose bank.

(b) *Time of receipt of benefit.* The Secretary normally will consider a benefit as having been received in the year in which the firm otherwise would have had to make a payment on the comparable commercial loan.

(c) *Allocation of benefit to a particular time period.* (1) *Short-term*

loans. The Secretary will allocate (expense) the benefit from a short-term loan to the year(s) in which the firm is due to make interest payments on the loan.

(2) *Long-term loans.* The Secretary normally will calculate the subsidy amount to be assigned to a particular year by calculating the difference in interest payments for that year, *i.e.,* the difference between the interest paid by the firm in that year on the government-provided loan and the interest the firm would have paid on the comparison loan.

* * * * *

(e) *Contingent liability interest-free loans.* (1) *Treatment as loans.* In the case of an interest-free loan for which the repayment obligation is contingent upon the company taking some future action or achieving some goal in fulfillment of the loan's requirements, the Secretary normally will treat any balance on the loan outstanding during a year as an interest-free, short-term loan in accordance with paragraphs (a), (b), and (c)(1) of this section. However, if the event upon which repayment of the loan depends will occur at a point in time more than one year after the receipt of the contingent liability loan, the Secretary will use a long-term interest rate as the benchmark in accordance with paragraphs (a), (b), and (c)(2) of this section.

(2) *Treatment as grants.* If at any point in time the Secretary determines that the event upon which repayment depends is not a viable contingency or the loan recipient has met the contingent action or goal and the government has not taken action to collect repayment, the Secretary will treat the outstanding balance of the loan as a grant received in the year in which this condition manifests itself.

* * * * *

■ 23. In § 351.509 revise paragraph (a)(1) to read as follows:

§ 351.509 Direct taxes.

(a) * * *

(1) *Exemption or remission of taxes.* In the case of a program that provides for a full or partial exemption or remission of a direct tax (for example, an income tax), or a reduction in the base used to calculate a direct tax, a benefit exists to the extent that the tax paid by a firm as a result of the program is less than the tax the firm would have paid in the absence of the program, including as a result of being located in an area designated by the government as being outside the customs territory of the country.

* * * * *

■ 24. In § 351.510 revise paragraph (a)(1) to read as follows:

§ 351.510 Indirect taxes and import charges (other than export programs).

(a) * * *

(1) *Exemption or remission of taxes.* In the case of a program other than an export program that provides for the full or partial exemption or remission of an indirect tax or an import charge, a benefit exists to the extent that the taxes or import charges paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program, including as a result of being located in an area designated by the government as being outside the customs territory of the country.

* * * * *

■ 25. In § 351.511 revise paragraph (a)(2)(i) to read as follows:

§ 351.511 Provision of goods or services.

(a) * * *

(2) * * *

(i) *In general.* The Secretary will normally seek to measure the adequacy of remuneration by comparing the government price to a market-determined price for the good or service resulting from actual transactions in the country in question. Such a price could include prices stemming from actual transactions between private parties, actual imports, or, in certain circumstances, actual sales from competitively run government auctions. In choosing such transactions or sales, the Secretary will consider product similarity; quantities sold, imported, or auctioned; and other factors affecting comparability. The Secretary may use actual sales from competitively run government auctions if the government auction:

(A) Uses competitive bid procedures that are open without restriction on the use of the good or service;

(B) Is open without restriction to all bidders, including foreign enterprises, and protects the confidentiality of the bidders;

(C) Accounts for the substantial majority of the actual government provision of the good or service in the country in question; and

(D) Determines the winner based solely on price.

* * * * *

■ 26. Add § 351.512 to read as follows:

§ 351.512 Purchase of goods.

(a) *Benefit*—(1) *In general.* In the case where goods are purchased by the government from a firm, in accordance with section 771(5)(E)(iv) of the Act a benefit exists to the extent that such goods are purchased for more than adequate remuneration.

(2) *Adequate remuneration defined*—(i) *In general.* The Secretary will normally seek to measure the adequacy of remuneration by comparing the price paid to the firm for the good by the government to a market-determined price for the good based on actual transactions, including imports, between private parties in the country in question, but if such prices are not available, then to a world market price or prices for the good.

(ii) *Actual market-determined prices unavailable.* If there are no market-determined domestic or world market prices available, the Secretary may measure the adequacy of remuneration by analyzing any premium in the request for bid or government procurement regulations provided to domestic suppliers of the good or use any other methodology to assess whether the price paid to the firm for the good by the government is consistent with market principles.

(iii) *Use of ex-factory or ex-works price.* In measuring adequate remuneration under paragraph (a)(2)(i) or (ii) of this section, the Secretary will use an ex-factory or ex-works comparison price and price paid to the firm for the good by the government in order to measure the benefit conferred to the recipient within the meaning of section 771(5)(E) of the Act. The Secretary will, if necessary, adjust the comparison price and the price paid to the firm by the government to remove all delivery charges, import duties, and taxes to derive an ex-factory or ex-works price.

(3) *Exception when the government is both a provider and purchaser of the good.* When the government is both a provider and a purchaser of the good, such as electricity, the Secretary will normally measure the benefit to the recipient firm by comparing the price at which the government provided the good to the price at which the government purchased the same good from the firm.

(b) *Time of receipt of benefit.* In the case of the purchase of a good, the Secretary normally will consider a benefit as having been received as of the date on which the firm receives payment for the purchased good.

(c) *Allocation of benefit to a particular time period.* In the case of the purchase of a good, the Secretary will normally allocate (expense) the benefit to the year in which the benefit is considered to have been received under paragraph (b) of this section. However, if the Secretary considers this purchase to be for or tied to capital assets such

as land, buildings, or capital equipment, the benefit will normally be allocated over time as defined in § 351.524(d)(2).

■ 27. Add § 351.521 to read as follows:

§ 351.521 Indirect taxes and import charges on capital goods and equipment (export programs).

(a) *Benefit.* (1) *Exemption or remission of taxes and import charges.* In the case of a program determined to be an export subsidy that provides for the full or partial exemption or remission of an indirect tax or an import charge on the purchase or import of capital goods and equipment, a benefit exists to the extent that the taxes or import charges paid by a firm as a result of the program are less than the taxes the firm would have paid in the absence of the program, including as a result of being located in an area designated by the government as being outside the customs territory of the country.

(2) *Deferral of taxes and import charges.* In the case that the program provides for a deferral of indirect taxes or import charges, a benefit exists to the extent that appropriate interest charges are not collected. Normally, a deferral of indirect taxes or import charges will be treated as a government-provided loan in the amount of the taxes deferred, according to the methodology described in § 351.505. The Secretary will use a short-term interest rate as the benchmark for tax deferrals of one year or less. The Secretary will use a long-term interest rate as the benchmark for tax deferrals of more than one year.

(b) *Time of receipt of benefit.* (1) *Exemption or remission of taxes and import charges.* In the case of a full or partial exemption or remission of an indirect tax or import charge, the Secretary normally will consider the benefit as having been received at the time the recipient firm otherwise would be required to pay the indirect tax or import charge.

(2) *Deferral of taxes and import charges.* In the case of the deferral of an indirect tax or import charge of one year or less, the Secretary normally will consider the benefit as having been received on the date on which the deferred tax becomes due. In the case of a multi-year deferral, the Secretary normally will consider the benefit as having been received on the anniversary date(s) of the deferral.

(c) *Allocation of benefit to a particular time period.* The Secretary normally will allocate (expense) the benefit of a full or partial exemption, remission or deferral of taxes or import charges described in paragraph (a) of this section to the year in which the benefit is considered to have been received under paragraph (b) of this section.

§ 351.522 [Removed and Reserved]

■ 28. Remove and reserve § 351.522.

■ 29. In § 351.525:

■ a. Revise paragraph (b)(1);

■ b. Revise paragraphs (b)(6)(iii), (iv), (v), and (vi);

■ c. Add paragraphs (b)(6)(vii), (b)(8) and (9);

■ d. Revise paragraph (c); and

■ e. Add paragraph (d).

The revisions and additions read as follows:

§ 351.525 Calculation of ad valorem subsidy rate and attribution of subsidy to a product.

* * * * *

(b) * * *

(1) *In general.* In attributing a subsidy to one or more products, the Secretary will apply the rules set forth in paragraphs (b)(2) through (9) of this section. The Secretary may determine to limit the number of cross-owned corporations examined under this section based on record information and resource availability.

(6) * * *

(iii) *Holding or parent companies.* If the firm that received a subsidy is a holding company, including a parent company with its own business operations, the Secretary will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries.

(iv) *Input producer*—(A) *In general.* If there is cross-ownership between an input producer that supplies a downstream producer and production of the input product is primarily dedicated to production of the downstream products, the Secretary will attribute subsidies received by the input producer to the combined sales of the input and downstream products produced by both corporations (excluding the sales between the two corporations).

(B) *Primarily dedicated.* In determining whether the input product is primarily dedicated to production of the downstream product, the Secretary will determine, as a threshold matter, whether the input could be used in the production of a downstream product including subject merchandise, regardless of whether the input is actually used for the production of subject merchandise. The Secretary may also consider the following factors, which are not in hierarchical order: whether the input is a link in the overall production chain; whether the input provider's business activities are focused on providing the input to the downstream producer; whether the input is a common input used in the production of a wide variety of products and industries; whether the downstream producers in the overall production chain are the primary users of the inputs produced by the input producer; whether the inputs produced by the input producer are primarily reserved for use by the downstream producer until the downstream producer's needs are met; whether the input producer is dependent on the downstream producers for the purchases of the input product; whether the downstream producers are dependent on the input producer for their supply of the input; the coordination, nature and extent of business activities between the input producer and the downstream producers whether directly between the input producer and the downstream producers or indirectly through other cross-owned corporations; and any other factor deemed relevant by the Secretary based upon the case-specific facts.

(v) *Providers of utility products.* If there is cross-ownership between a corporation providing electricity, natural gas or other similar utility product and a producer of subject merchandise, the Secretary will attribute subsidies received by that provider to the combined sales of that provider and the sales of products sold by the producer of subject merchandise if at least one of the following two conditions are met:

(A) A substantial percentage, normally defined as 25 percent or more, of the production of the cross-owned utility provider is provided to the producer of subject merchandise, or

(B) The producer of subject merchandise purchases a substantial percentage, normally defined as 25 percent or more, of its electricity, natural gas, or other similar utility product from the cross-owned provider.

(vi) *Transfer of subsidy between corporations with cross-ownership.* If a cross-owned corporation received a subsidy and transferred the subsidy to a producer of subject merchandise, the Secretary will only attribute the subsidy to products produced by the recipient of the transferred subsidy. When the cross-owned corporation that transferred the subsidy could fall under two or more of the paragraphs under paragraph (b)(6) of this section the transferred subsidy will be attributed solely under this paragraph.

(vii) *Cross-ownership defined.* Cross-ownership exists between two or more corporations when one corporation can use or direct the individual assets of the other corporation(s) in essentially the

same ways it can use its own assets. Normally, this standard will be met when there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations.

* * * * *

(8) *Attribution of subsidies to plants or factories.* The Secretary will not tie or attribute a subsidy on a plant- or factory-specific basis.

(9) *General standard for finding tying.* A subsidy will normally be determined to be tied to a product or market when the authority providing the subsidy was made aware of, or otherwise had knowledge of, the intended use of the subsidy and acknowledged that intended use of the subsidy prior to, or concurrent with, the bestowal of the subsidy.

(c) *Trading companies*—(1) *In general.* Benefits from subsidies provided to a trading company that exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm which is producing subject merchandise that is sold through the trading company, regardless of whether the trading company and the producing firm are affiliated.

(2) *The individually examined respondent exports through trading company.* To cumulate subsidies when the trading company is not individually examined as a respondent, the Secretary will pro-rate the subsidy rate calculated for the trading company by using the ratio of the producer's total exports of subject merchandise to the United States sold through the trading company divided by producer's total exports of subject merchandise to the United States and add the resultant rate onto the producer's calculated subsidy rate.

(3) *The individually examined respondent is a trading company.* To cumulate subsidies when the trading company is individually examined as a respondent, the Secretary will pro-rate the subsidy rate calculated for the producer(s) by the ratio of the producer's sales of subject merchandise to the United States purchased or sourced by the trading company to total sales to the United States of subject merchandise from all selected producers sourced by the respondent trading company and add the resultant rates to the trading company's calculated subsidy rate.

(d) *Ad valorem subsidy rate in countries with high inflation.* For countries experiencing an inflation rate greater than 25 percent *per annum* during the relevant period, the Secretary will normally adjust the benefit amount (numerator) and the sales data (denominator) to account for the rate of inflation during the relevant period of investigation or review in calculating the *ad valorem* subsidy rate.

■ 30. Revise § 351.526 to read as follows:

§ 351.526 Subsidy extinguishment from changes in ownership.

(a) *In general.* The Secretary will normally presume that non-recurring subsidies continue to benefit a recipient in full over an allocation period determined consistent with §§ 351.507(d), 351.508(c)(1), or 351.524, notwithstanding an intervening change in ownership.

(b) *Rebutting the presumption of subsidy continuation notwithstanding a change in ownership.*

(1) An interested party may rebut the presumption in paragraph (a) of this section by demonstrating with sufficient evidence that, during the allocation period, a change in ownership occurred in which the seller sold its ownership of all or substantially all of a company or its assets, retaining no control of the company or its assets, and

(i) In the case of a government-to-private sale, that the sale was an arm's-length transaction for fair market value, or

(ii) In the case of a private-to-private sale, that the sale was an arm's-length transaction, unless a party demonstrates that the sale was not for fair market value.

(2) *Arm's-length.* In determining whether the evidence presented in paragraph (b)(1) of this section demonstrates that the transaction was conducted at arm's length, the Secretary will be guided by the SAA, which defines an arm's-length transaction as a transaction negotiated between unrelated parties, each acting in its own interest, or between related parties such that the terms of the transaction are those that would exist if the transaction had been negotiated between unrelated parties.

(3) *Fair Market Value.* (i) In determining whether the evidence presented by parties pursuant to paragraph (b)(1) of this section demonstrates that the transaction was for fair market value, the Secretary will determine whether the seller, including in the case of a privatization through the government in its capacity as seller, acted in a manner consistent with the normal sales practices of private, commercial sellers in that country, taking into account evidence regarding whether the seller failed to maximize its return on what it sold.

(ii) In making the determination under paragraph (b)(3)(i) of this section, the Secretary may consider, inter alia, information regarding comparable benchmark prices as well as information regarding the process through which the sale was made. The following is a non-exhaustive list of specific considerations that the Secretary may find to be relevant in this regard:

(A) *Objective analysis.* Whether the seller performed or obtained an objective analysis in determining the appropriate sales price and, if so, whether it implemented the recommendations of such objective analysis for maximizing its return on the sale, including in regard to the sales price recommended in the analysis;

(B) *Artificial barriers to entry.* Whether the seller imposed restrictions on foreign purchasers or purchasers from other industries, overly burdensome or unreasonable bidder qualification requirements, or any other restrictions that artificially suppressed the demand for, or the purchase price of, the company;

(C) *Highest bid.* Whether the seller accepted the highest bid, reflecting the full amount that the company or its assets (including the value of any subsidy benefits) were actually worth under the prevailing market conditions and whether the final purchase price was paid through monetary or close equivalent compensation; and

(D) *Committed investment.* Whether there were price discounts or other inducements in exchange for promises of additional future investment that private, commercial sellers would not normally seek (for example, retaining redundant workers or unwanted capacity) and, if so, whether such committed investment requirements were a barrier to entry or in any way distorted the value that bidders were willing to pay for what was being sold.

(4) *Market distortion.* Information presented under paragraphs (b)(2) and (3) of this section notwithstanding, the Secretary will not find the presumption in paragraph (a) of this section to be rebutted if an interested party has demonstrated that, at the time of the change in ownership, the broader market conditions necessary for the transaction price to accurately reflect the subsidy benefit were not present or were severely distorted by government action or inaction such that the transaction price was meaningfully different from what it would otherwise have been absent the distortive government action or inaction. In assessing such claims, the Secretary may consider, among other things, the following factors:

(i) *Fundamental conditions.* Whether the fundamental requirements for a properly functioning market are sufficiently present in the economy in general as well as in the particular industry or sector, including, for example, free interplay of supply and demand, broad-based and equal access to information, sufficient safeguards against collusive behavior, and effective operation of the rule of law; and

(ii) *Legal and fiscal incentives.* Whether the government has used the prerogatives of government in a special or targeted way that makes possible or otherwise significantly distorts the terms of a change in ownership in a way that a private seller could not. Examples of such incentives include, but are not limited to, the following:

(A) Special tax or duty rates that make the sale more attractive to potential purchasers;

(B) Regulatory exemptions particular to the privatization (or to privatizations generally) affecting worker retention or environmental remediation; or

(C) Subsidization or support of other companies to an extent that severely distorts the normal market signals regarding company and asset values in the industry in question.

(c) *Subsidy benefit extinguishment.* (1) *In general.* If the Secretary determines that any evidence presented by interested parties under paragraph (b) of this section rebuts the presumption under paragraph (a) of this section, the full amount of pre-transaction subsidy benefits, including the benefit of any concurrent subsidy meeting the criteria in paragraph (c)(2) of this section, will be found to be extinguished and therefore not countervailable. Absent such a finding, the Secretary will not find that a change in ownership extinguishes subsidy benefits.

(2) *Concurrent subsidies.* For purposes of paragraph (c)(1) of this section, concurrent subsidies are those subsidies given to facilitate or encourage or that are otherwise bestowed concurrent with a change in ownership. The Secretary will normally consider the value of a concurrent subsidy to be fully reflected in the fair market value price of an arm's-length change in ownership and, therefore, to be fully extinguished in such a transaction under paragraph (c)(1) of this section, if the following criteria are met:

(i) The nature and value of the concurrent subsidies are fully transparent to all potential bidders and, therefore, reflected in the final bid values of the potential bidders,

(ii) The concurrent subsidies are bestowed prior to the sale, and

(iii) There is no evidence otherwise on the record demonstrating that the concurrent subsidies are not fully reflected in the transaction price.

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Part V

The President

Memorandum of July 9, 2024—Delegation of Functions and Authorities Under Sections 1333, 1342, 1352, and 1353 of the National Defense Authorization Act for Fiscal Year 2024

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Presidential Documents

Title 3—

The President

Memorandum of July 9, 2024

Delegation of Functions and Authorities Under Sections 1333, 1342, 1352, and 1353 of the National Defense Authorization Act for Fiscal Year 2024

Memorandum for the Secretary of State[,] the Secretary of Defense[,] the Secretary of Energy[, and] the Director of the Office of Management and Budget

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code:

Section 1. (a) I hereby delegate to the Secretary of Defense, in consultation with the Secretary of Energy, the functions and authorities vested in the President by section 1352(g) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) (the ''Act'').

(b) I hereby delegate to the Secretary of Defense, in consultation with the Secretaries of State and Energy, the functions and authorities vested in the President by sections 1352(h)(4), 1352(d)(1), and 1352(e)(2)(A) of the Act.

(c) I hereby delegate the functions and authorities vested in the President by the following provisions of the Act as follows:

(i) to the Secretary of State, in consultation with the Secretaries of Defense and Energy, as appropriate, section 1333 of the Act;

(ii) to the Secretary of State, in consultation with the Secretaries of Defense and Energy, section 1342 of the Act;

(iii) to the Secretary of Defense, in consultation with the Secretary of Energy, section 1352(e)(2)(B) of the Act;

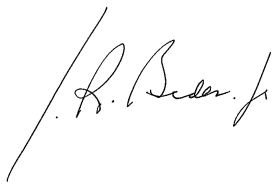
(iv) to the Secretary of Defense, in consultation with the Secretary of Energy, section 1352(e)(2)(C) of the Act;

(v) to the Secretary of Defense, in consultation with the Secretaries of State and Energy, section 1352(i) of the Act; and

(vi) to the Secretary of Defense for funds allocated to the Department of Defense account and to the Secretary of Energy for funds allocated to the Department of Energy account, in coordination with the Director of the Office of Management and Budget, section 1353(d), (h), and (i) of the Act.

Sec. 2. The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as the provision referenced in this memorandum.

Sec. 3. The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, July 9, 2024

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